SENATE.

THURSDAY, *May 24, 1900.*

Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

The PRESIDENT pro tempore resumed the chair.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CARTER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

ENROLLED BILLS SIGNED.

The PRESIDENT pro tempore announced his signature to the following enrolled bills and joint resolution; which had previously been signed by the Speaker of the House of Representatives:

A bill (S. 124) regulating permits for private conduits in the District of Columbia;

A bill (S. 1243) for the relief of the owner or owners of the schooner *Bergen;*

A bill (S. 3473) for the relief of Corinne Strickland;

A bill (S. 4018) to amend an act regulating the inspection of flour in the District of Columbia, approved December 21, 1898;

A bill (H. R. 2156) for the relief of Oliver M. Blair, administrator of Thomas P. Blair, deceased;

A bill (H. R. 6634) to enlarge the powers of the Department of Agriculture, prohibit the transportation by interstate commerce of game killed in violation of local laws, and for other purposes;

A bill (H. R. 6876) providing for the transfer to Post 39, Grand Army of the Republic, at Lawrence, Mass., of certain guns now in possession of Battery C, Massachusetts Volunteer Militia;

A bill (H. R. 8369) to detach the county of Concho from the western judicial district of Texas and attach the same to the northern judicial district of Texas, and for other purposes;

A bill (H. R. 9711) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes;

A bill (H. R. 9879) to detach certain counties from the United States judicial district of northern California and to annex such counties to the United States judicial district of southern California; to divide said southern district of California into two divisions, and to provide for the holding of terms of court at the city of Fresno and city of Los Angeles;

A bill (H. R. 10538) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1901;

A bill (H. R. 11081) to provide for the holding of a term of the circuit and district courts of the United States at Superior, Wis.; and

A joint resolution (H. J. Res. 255) to print the annual reports of the American Historical Association.

ESTATE OF JOHN S. SAMMIS, DECEASED.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings filed by the court in the cause of Egbert C. Sammis, administrator of John S. Sammis, deceased; which, with the accompanying papers, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

A bill (S. 557) for the relief of Thomas Rosbrugh; and

A bill (S. 2883) to change the characteristic of Cape Cod light, Massachusetts.

The message also announced that the House had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the following bills:

A bill (S. 207) granting an increase of pension to Margaret E. Van Horn;

A bill (S. 517) granting a pension to Nancy E. Neeley;

A bill (S. 1619) granting an increase of pension to Ella Cotton Conrad; and

A bill (S. 1781) granting an increase of pension to Julia MacN. Henry.

The message further announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 3369) to put in force in the Indian Territory certain provisions of the laws of Arkansas relating to corporations, and to make said provisions applicable to said Territory;

A bill (H. R. 10869) for the relief of the Medawakanton band of Sioux Indians, residing in Redwood County, Minn.; and

A bill (H. R. 11719) amending section 5270 of the Revised Statutes of the United States.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented petitions of members of the Ex-Slave Mutual Relief, Bounty, and Pension Associations of Vicksburg and Warren, in the State of Mississippi, praying that all ex-slaves be granted a pension; which were ordered to lie on the table.

Mr. TELLER presented a memorial of the Chamber of Commerce of Denver, Colo., remonstrating against an appropriation of $200,000 being made to continue the work of the Philadelphia Commercial Museum; which was ordered to lie on the table.

He also presented a memorial of sundry wholesale merchants of Colorado, remonstrating against the enactment of legislation providing for the use of alum in the manufacture of baking powders; which was referred to the Committee on Manufactures.

He also presented a petition of the Woman's Christian Temperance Union of Salida, Colo., and a petition of the Woman's Christian Temperance Union of Pueblo, Colo., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in Army canteens, etc.; which were referred to the Committee on Military Affairs.

He also presented a petition of the congregation of Unity Church, of Fort Collins, Colo., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in Hawaii, Porto Rico, Cuba, and the Philippines; which was ordered to lie on the table.

He also presented a memorial of the Trades Assembly of Victor, Colo., remonstrating against the passage of the so-called desert-land bill; which was referred to the Committee on Public Lands.

He also presented a petition of the Boulder County League of Fourth-Class Postmasters, of Lafayette, Colo., praying for the adoption of certain amendments to the Postal Laws and Regulations; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. CHANDLER. I have received from Mr. M. W. Gilbert, assistant secretary of the National Baptist Convention, dated Charleston, S. C., a petition signed by N. B. Sterrett, W. P. Carolina, pastor of St. Luke's African Methodist Episcopal Church, and 16 other pastors of South Carolina, in which they say that the political conditions existing in South Carolina demand the serious attention of the country and require suitable legislation for the protection of a majority of the citizens of the State in the exercise of their constitutional prerogatives. The petitioners call attention to the speech of the senior Senator from South Carolina [Mr. TILLMAN] in the Senate February 26, 1900, and they ask for such legislation as will enforce the fifteenth amendment to the Constitution of the United States. They ask for the appointment of a committee to investigate the conditions of the franchise in South Carolina.

With this statement of the language of the petition I ask that the names of the signers may be printed in the RECORD, and that the petition be referred to the Committee on Privileges and Elections.

The PRESIDENT pro tempore. The Senator from New Hampshire asks unanimous consent that the petition and the names be printed in the RECORD.

Mr. CHANDLER. Not the petition. I have made a statement of the petition, and I ask that the signatures be printed in the RECORD.

There being no objection, the signatures were ordered to be printed in the RECORD, as follows:

W. P. Carolina, pastor St. Luke African Methodist Episcopal Church.
M. W. Gilbert, pastor Central Baptist Church.
George C. Rowe, pastor Battery Congregational Church.
H. T. Spencer, South Carolina Methodist Episcopal Conference.
H. Dart, pastor Main Street Presbyterian Church.
J. E. Beard, Laurel Street African Methodist Episcopal Church.
A. G. Townsend, pastor Centenary Methodist Episcopal Church.
D. Brown, pastor of Olivet Presbyterian Church.
F. C. Ferguson, pastor Reformed Episcopal Church.
H. H. Matthews, pastor Methodist Episcopal Church.
S. S. Youngblood, pastor First Baptist Church.
J. A. Robinson, pastor Baptist Church.
N. B. Sterrett, D. D.
J. A. Brown, Methodist Episcopal Church.
O. D. Robinson, pastor Mount Zion Church.
G. V. Clark, pastor Plymouth Congregational Church.
J. F. Page, of Methodist Episcopal Church.
L. Ruffin Nichols.

Mr. PENROSE presented a petition of the Central Labor Union, American Federation of Labor, of Erie, Pa., praying for the adoption of certain amendments to the postal laws; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Woman's Christian Temperance Union, of Berwyn, Pa., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in any post-exchange, canteen, or transport, or upon any premises used for

military purposes by the United States; which was referred to the Committee on Military Affairs.

Mr. PLATT of New York presented the petition of E. B. Morris, master, and H. H. Goff, secretary, of the New York State Grange, Patrons of Husbandry, praying for the adoption of a sixteenth amendment to the Constitution prohibiting the disfranchisement of United States citizens on account of sex; which was referred to the Select Committee on Woman Suffrage.

He also presented a petition of the War Veterans and Sons' Association, of Brooklyn, N. Y., praying for the enactment of legislation giving preference to veterans in every public employment in the civil service of the United States; which was referred to the Committee to Examine the Several Branches of the Civil Service.

He also presented a petition of the Crockery Board of Trade of New York, praying for the enactment of legislation increasing the salary of examiners at the port of New York from $2,500 to $4,000; which was referred to the Committee on Finance.

He also presented a petition of the Niagara County Farmers' Club, of Hartland, N. Y., praying for the enactment of legislation giving State authority to control the sale of imitation dairy products; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Federal Labor Union, No. 7549, American Federation of Labor, of Watertown, N. Y., praying for the enactment of legislation to regulate the pay and hours of service of attendants at Government Hospital for Insane in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. HARRIS presented a petition of the Woman's Christian Temperance Union and the congregations of the Congregational and Methodist Episcopal churches and the Church of Christ, of Burlington, Kans., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in any post exchange, canteen, or transport, or upon any premises used for military purposes by the United States; which was referred to the Committee on Military Affairs.

Mr. BARD presented a petition of the county convention of San Diego County, Cal., praying for the enactment of legislation to prohibit the importation or sale of intoxicating liquors in the insular possessions and Territories of the United States, and also for the reenactment of the anti-canteen law; which was ordered to lie on the table.

Mr. PETTIGREW presented the petition of James Seldon Cowdon, of Washington, D. C., praying that the Mississippi River Commission be abolished; which was referred to the Committee on Commerce.

LEASING OF GRAZING LANDS.

Mr. CARTER. I present to the Senate for reference certain resolutions adopted by a meeting at Salt Lake City on the 18th of April, 1900, which meeting was participated in by the governors of Utah, Wyoming, Nebraska, South Dakota, and Montana, the governors of Washington and Idaho, and other persons, protesting against the passage of a certain bill pending before the Committee on Agriculture and Forestry which contemplates provision for the leasing of the public lands of the United States for grazing purposes.

I took occasion prior to this meeting, indeed before any provision was made for it, to call attention to the bill in the Senate, and in so doing made the statement, which I believe is generally concurred in, that no such legislation as the bill contemplated would meet with favor in either branch of Congress according to my view. Since that statement was made the Interior Department has in the most emphatic manner recommended that the bill be reported for indefinite postponement. In conformity with that report from the Department, I understand that the Committee on Agriculture and Forestry has recommended the indefinite postponement of the bill. But in view of the high authority from whence these resolutions come, I request that they be referred to the Committee on Agriculture and Forestry.

The PRESIDENT pro tempore. The resolutions will be so referred.

ACT OF INCORPORATION OF THE NICARAGUA COMPANY.

Mr. MORGAN. I present a certified copy of the act of incorporation of the Nicaragua Company, another one of the New Jersey corporations, the fourth one, dated on the 11th day of May, 1900, and I ask that it may be printed and referred to the Committee on Interoceanic Canals.

The PRESIDENT pro tempore. The paper will be referred as requested.

CLAIMS AGAINST NICARAGUA, ETC.

Mr. MORGAN. I present an official letter from the Secretary of State, in regard to the claims against the Government of Nicaragua and other governments, which is so highly creditable to the Administration and to the Secretary, and so important to claimants, that I ask that it may be read.

The PRESIDENT pro tempore. Without objection, the letter will be read.

The letter was read and ordered to lie on the table, as follows:

DEPARTMENT OF STATE, *Washington, May 23, 1900.*

SIR: I have the honor to acknowledge the receipt of your letter of December 14 last, inclosing one to you from Dr. Earl Flint, of Rivas, Nicaragua, requesting information as to the status of the claims of American citizens against Nicaragua.

You call attention to the antiquity of some of these claims and the injustice done the claimants by the long delay in their settlement, and you express the hope that Nicaragua will be held to just account to our people in the matter.

The subject of bringing to a final settlement claims against Nicaragua, some of which have remained unsettled for a period of over forty years, is one that has received the careful consideration of the Department, even before its receipt of your letter.

Not only these but other claims of a meritorious character against other governments have received similar consideration. For example, the old Spanish and Cuban claims, claims against Colombia, and still others.

The Department has given prompt attention to all current claims and business, and, as far as possible, it has taken up and adjusted other claims of long standing. More would have been accomplished in this respect had it not been for the multiplicity of novel and difficult questions arising during the last three years. As soon as it is possible to do so, it is the purpose of the Department to bring to settlement, in some form, every meritorious claim of an American citizen against a foreign government, even though it may be one of long standing.

I have the honor to be, sir, your obedient servant,

JOHN HAY.

Hon. JOHN T. MORGAN,
United States Senate.

REPORTS OF COMMITTEES.

Mr. KENNEY, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 4163) for the classification of clerks in the first and second class post-offices, reported it without amendment, and submitted a report thereon.

He also, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 5508) granting an increase of pension to Jennie C. Taylor; and

A bill (H. R. 5647) granting a pension to Amanda Hurd.

Mr. PETTUS, from the Committee on Military Affairs, to whom was referred the bill (H. R. 6344) to remove the charges of desertion from the records of the War Department against Frederick Mehring, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1606) to remove the charge of desertion from the military record of John C. Carroll, alias John T. Johnson, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. BATE, from the Committee on Military Affairs, to whom was referred the bill (H. R. 1136) for the relief of parties for property taken from them by military forces of the United States, reported it without amendment.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the amendment submitted by Mr. CARTER on the 18th instant, relative to one month's extra pay for employees of the Senate and House of Representatives, intended to be proposed to the general deficiency appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (H. R. 8498) to amend an act entitled "An act authorizing the reassessment of water-main taxes in the District of Columbia, and for other purposes," approved July 8, 1898, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 4425) to regulate the practice of homeopathic pharmacy in the District of Columbia, reported it without amendment, and submitted a report thereon.

Mr. CAFFERY, from the Committee on Commerce, reported an amendment relative to an appropriation of $25,000 for improving or altering dredge or dredges for use in South Pass, Mississippi, intended to be proposed to the sundry civil appropriation bill, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 3526) granting a pension to James M. Ellett; and

A bill (H. R. 10060) granting an increase of pension to Winefred M. Goins.

Mr. HAWLEY, from the Committee on Military Affairs, to whom was referred the bill (H. R. 8925) to authorize the detail of an officer of the retired list of the Army as adjutant-general of the District of Columbia militia, reported it without amendment, and submitted a report thereon.

Mr. SEWELL, from the Committee on Military Affairs, to

whom was referred the bill (H. R. 11538) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1901, and for other purposes, reported it with amendments, and submitted a report thereon.

HISTORICAL ARCHIVES AND PUBLIC RECORDS.

Mr. PLATT of New York, I am directed by the Committee on Printing, to whom was referred the bill (S. 4605) to provide for the investigation of the historical archives and public records of the several States and Territories, and of the United States, with a view to their preservation by publication, to report it with amendments, and I ask unanimous consent for its present consideration.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The first amendment was, on page 1, line 4, to strike out the word "directed" and insert "authorized and requested;" so as to make the bill read:

Be it enacted, etc., That the American Historical Association be, and it is hereby, authorized and requested to investigate the character and condition of the historical archives and public records of the several States and Territories, and of the United States, and the provisions which have been made by law for the preservation and publication of the same, and to report to Congress, through the Secretary of the Smithsonian Institution, the results of such investigation, together with suggestions of such legislation as the said American Historical Association may deem necessary and proper; and that the sum of $5,000 be, and the same is hereby, appropriated to the said American Historical Association, out of any money in the Treasury not otherwise appropriated, for defraying the expenses of such investigation and report: *Provided*, That no member of the said American Historical Association shall receive any compensation for his services in connection with the said investigation and report other than the reimbursement of such expenses, including clerical assistance, as shall be necessarily incurred in the prosecution of the work.

The amendment was agreed to.

The next amendment was to add to the bill the following additional proviso:

And provided further, That the said American Historical Association shall submit with their report an itemized statement of the expenditures incurred in the prosecution of the work provided for in this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

INVESTIGATION OF INDIAN AFFAIRS.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. THURSTON on the 18th instant, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Indian Affairs be authorized, either by full committee or such subcommittees as may be appointed by the chairman thereof, during the coming recess of Congress to visit and investigate the several Indian reservations, Indian schools supported in whole or in part by the Government, or any reservations where, in the opinion of said committee, it may be necessary to extend their investigations.

Second. That said committee or subcommittee shall have the power to send for persons and papers, to administer oaths, and to examine witnesses under oath touching the matters which they are hereby empowered to investigate, and may hold their sessions during the recess of the Senate at such place or places as they may determine, to employ stenographers and such clerical assistance as may be deemed advisable; and the necessary and proper expense incurred in the execution of this order shall be paid out of the contingent fund of the Senate upon vouchers approved by the chairman of said committee.

THE COMMITTEE ON INTEROCEANIC CANALS.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. MORGAN on the 14th instant, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the expenses of the hearing before the Committee on Interoceanic Canals on the 11th of May, 1900, be paid out of the contingent fund of the Senate, including the travel and per diem of witnesses, and the services of a stenographer and typewriter.

ASSISTANT CLERK TO COMMITTEE ON IMMIGRATION.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. PENROSE on the 18th instant, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Immigration be, and it hereby is, authorized to employ an assistant clerk, to be paid from the contingent fund of the Senate, at the rate of $1,440 per annum, until otherwise provided for by law.

ASSISTANT CLERK TO COMMITTEE ON NAVAL AFFAIRS.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. HALE on the 18th instant, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the assistant clerk to the Committee on Naval Affairs be paid from the contingent fund of the Senate, at the rate of $1,440 per annum, until otherwise provided by law.

TIMBER AND STONE IN INDIAN TERRITORY.

Mr. THURSTON. I am directed by the Committee on Indian Affairs, to whom was referred the bill (H. R. 10665) to provide for the use of timber and stone for domestic and industrial purposes in the Indian Territory, to report it back favorably with certain amendments, and I ask for its present consideration.

The Secretary proceeded to read the bill.

Mr. PETTIGREW. I object to the present consideration of the bill. I think it will lead to much discussion.

The PRESIDENT pro tempore. The Senator from South Dakota objects, and the bill will be placed on the Calendar.

STATUE OF GEN. ULYSSES S. GRANT.

Mr. WETMORE, from the Committee on the Library, reported the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound, in the form of eulogies, 13,025 copies of the proceedings in Congress upon the reception and acceptance of the statue of Gen. Ulysses S. Grant, presented by the Grand Army of the Republic, of which 4,000 shall be for the use of the Senate, 8,000 for the use of the House of Representatives, 1,000 to be delivered to the committee of the Grand Army of the Republic on the Grant Memorial, and the remaining 25 copies, bound in full morocco, to be presented to Mrs. Julia Dent Grant; and the Public Printer is directed to procure a photogravure of said statue and a photogravure likeness of General Grant to accompany said proceedings.

BILLS INTRODUCED.

Mr. FOSTER introduced a bill (S. 4828) granting an increase or pension to Norman Stewart; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PENROSE introduced a bill (S. 4829) granting a pension to Moses P. Osborn; which was read twice by its title, and referred to the Committee on Pensions.

Mr. COCKRELL introduced a bill (S. 4830) to correct the military record of Ira J. Paxton; which was read twice by its title.

Mr. COCKRELL. I present, to accompany the bill, the petition of Ira J. Paxton, of Company I, Eighth Regiment Missouri State Militia, praying for the correction of his military record, together with affidavits of Amos Paxton, William H. Lord, George W. Murphy, Hugh B. Paxton, William B. Charlton, and F. M. Harlan. I move that the bill and accompanying papers be referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. TURLEY introduced a bill (S. 4831) granting a pension to John Laffey; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. MASON introduced a bill (S. 4832) to correct the military record of Oscar B. Knight; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 4833) granting an increase of pension to Elias D. Strunk; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 4834) granting a pension to Otto Haltnorth; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 4835) for the relief of George Seymour and others; which was read twice by its title, and referred to the Committee on Claims.

Mr. WETMORE introduced a bill (S. 4836) granting an increase of pension to Phebe Babcock; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. McCUMBER introduced a bill (S. 4837) to provide for a commission to treat with the Gros Ventre, Mandan, and Arickaree Indians; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. TELLER introduced a bill (S. 4838) to provide for the holding of a term of the circuit and district courts of the United States at Grand Junction, Colo.; which was read twice by its title, and referred to the Committee on the Judiciary.

REGENT OF SMITHSONIAN INSTITUTION.

Mr. CULLOM. I introduce a joint resolution and ask for its immediate consideration.

The joint resolution (S. R. 127) to fill a vacancy in the Board of Regents of the Smithsonian Institution was read the first time by its title and the second time at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than members of Congress, shall be filled by the reappointment of Andrew D. White, a resident of the State of New York, whose term of office has expired.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ELIZABETH L. W. BAILEY.

Mr. GALLINGER submitted an amendment proposing to appropriate $10,519.20 to pay Elizabeth L. W. Bailey, of Washington, D. C., administratrix of the estate of Davis W. Bailey, deceased, the amount of an award made and filed in the supreme court of the District of Columbia, etc., intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

NORTH AMERICAN COMMERCIAL COMPANY.

Mr. PETTIGREW. I submit a resolution and ask for its immediate consideration.

The resolution was read, as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, requested to inform the Senate what disposition has been made of the appeal of the defendant in the case of The United States *vs.* The North American Commercial Company, made in the United States circuit court, southern district of New York, against a judgment rendered by said court in favor of the United States April 27, 1895, which appeal was carried to the United States circuit court of appeals; also, that the Secretary inform the Senate what amount is now due the Treasury of the United States, under the order of the court above mentioned, from the North American Commercial Company for rental, taxes, and bonus on seal skins taken under the terms of its lease of the sea islands of Alaska; also what number of seal pups, if any, have starved on the islands in Bering Sea during the seasons 1898 and 1899, and whether the practice of branding seals is still pursued and what has been the effect of the branding of seals in preserving seal life.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. CHANDLER. It should be a direction and not a request. I move to strike out the word "requested" and to insert "directed."

Mr. PETTIGREW. I accept that modification.

The PRESIDENT pro tempore. The resolution will be so modified.

The resolution as modified was agreed to.

ALICE V. COOK.

Mr. GALLINGER. I submit a concurrent resolution and ask for its present consideration.

The concurrent resolution was read, as follows:

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill of the Senate (S. 2344) granting a pension to Alice V. Cook.

Mr. GALLINGER. Mr. President, that there may be no misunderstanding about this matter, I desire to state that this pension bill proposed to grant a pension of $25 a month. It was reduced to $12 per month, but I am informed by the Commissioner of Pensions that the beneficiary is now drawing a pension of $12 per month. So this act would be of no benefit to her, and hence the bill is recalled for reconsideration.

The resolution was considered by unanimous consent, and agreed to.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on Indian Affairs:

A bill (H. R. 3369) to put in force in the Indian Territory certain provisions of the laws of Arkansas relating to corporations, and to make said provisions applicable to said Territory; and

A bill (H. R. 10869) for the relief of the Medawakanton band of Sioux Indians, residing in Redwood County, Minn.

The bill (H. R. 11719) amending section 5270 of the Revised Statutes of the United States was read twice by its title, and referred to the Committee on the Judiciary.

CIVIL-SERVICE EXAMINATIONS, ETC.

The PRESIDENT pro tempore laid before the Senate the following resolution, submitted by Mr. GALLINGER on the 22d instant, coming over from a previous day:

Resolved, That the Civil Service Commission is hereby directed to furnish the Senate, at the earliest practicable day, information as to the number of persons examined, under the direction of said commission, for appointment in the public service during each fiscal year since July 1, 1895, the number who passed the required examination each year, the number who received appointments, the number who were dropped from the eligible list because of not having received appointment within one year after successfully passing the required examination, and the number now on the eligible lists, designating the different classes of eligibles.

Mr. GALLINGER. I ask that that resolution may lie on the table subject to call.

The PRESIDENT pro tempore. The Senator from New Hampshire asks that the resolution may lie on the table subject to his call. Is there objection? The Chair hears none, and it is so ordered.

ELECTION OF SENATORS BY THE PEOPLE.

The PRESIDENT pro tempore laid before the Senate the following resolution submitted by Mr. PETTIGREW on the 22d instant, coming over from a previous day:

Resolved, That the Committee on Privileges and Elections be discharged from the further consideration of joint resolution proposing an amendment to the Constitution providing for the election of Senators of the United States, and that said joint resolution be reported to the Senate and placed upon the Calendar for consideration.

Mr. PETTIGREW. I should like to have the resolution lie over, not losing its place, with the right to be called up.

The PRESIDENT pro tempore. Subject to the Senator's call?

Mr. PETTIGREW. Yes; at the end of the morning business. I want it to be so that I can call it up.

The PRESIDENT pro tempore. The Senator from South Dakota asks unanimous consent that the resolution may lie on the table subject to call. Is there objection? The Chair hears none, and it is so ordered.

QUARANTINE REGULATIONS.

Mr. VEST. I ask unanimous consent for the consideration of the bill (S. 4171) to amend "An act granting additional quarantine powers and imposing additional duties upon the Marine-Hospital Service," approved February 15, 1893.

This is a bill making certain amendments to the quarantine law. It is reported unanimously by the Committee on Public Health and National Quarantine. All the objectionable features of the bill, or those that were in controversy, have been eliminated, and it is absolutely necessary that the bill shall be considered now in order that it may become a law at the present session of Congress.

The PRESIDENT pro tempore. The Senator from Missouri asks unanimous consent for the present consideration of the bill indicated by him. The bill will be read.

The Secretary read the bill.

Mr. TILLMAN. Mr. President——

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. TILLMAN. This is such an important matter that, as I have not had an opportunity to examine it, I shall have to ask that the bill may go over.

Mr. VEST. If the Senator will permit me, I have a dispatch here from Porto Rico to the Surgeon-General of the Marine-Hospital Service, stating that it is absolutely necessary that this legislation shall be had. The bill does not have a single objectionable feature in it. It is agreed to by all the boards of health, including those from the Senator's own State. It is the unanimous report of the committee. It simply gives the Marine Hospital Corps, under which alone we can operate during the present year, for there is no time now to make any new law, the power to administer oaths, which they ought to have had long ago, and the power to exclude smuggling vessels and fishing smacks that come within the quarantined districts, especially in Florida, and are not exempt, and which surreptitiously hold communication with the shore. There is not one single objectionable feature in the bill.

Mr. TILLMAN. The Senator from Missouri is undoubtedly entirely honest in this matter, and I do not think for a moment that he is misstating it; but still it is such an important measure to my State that I must have an opportunity to examine the bill before I can consent to its passage.

Mr. VEST. The health officer at Charleston agreed to it. He was examined by our committee at a public hearing. We examined every health officer from all the principal cities, including Charleston.

Mr. TILLMAN. I am not guided by the health officer at Charleston. I am guided by my sense of duty and by my obligations to the State as a whole, and I insist that I must examine the bill. I will facilitate its passage if I see nothing objectionable in it, but I must insist that it shall go over for a time, at least. The Senator can call it up later in the day, as soon as I have had a chance to read it and see what it means.

The PRESIDENT pro tempore. Objection being made, the bill will resume its position on the Calendar.

LYDIA STRANG.

Mr. ALLEN. I ask unanimous consent for the present consideration of the bill (H. R. 7812) granting a pension to Lydia Strang.

Mr. BACON rose.

Mr. ALLEN. It will not lead to any discussion at all.

Mr. BACON. If it will not lead to debate, and if it will not be taken as a precedent, I will not object; but the Senator will perceive that if all unobjected cases are now brought to the attention of the Senate the morning hour will be consumed.

Mr. ALLEN. This is an urgent bill. The beneficiary is sick.

Mr. BACON. On the statement of the Senator I will consent in this case, hoping that no Senator will consider me discourteous in refusing to extend a similar courtesy to him upon a like application.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 23d instant approved and signed the act (S. 906) to provide an American register for the steamer *Esther*, of New Orleans.

The message also announced that the President of the United States had on this day approved and signed the following acts:

An act (S. 1066) granting an increase of pension to Margaret B. Shipp; and

An act (S. 1890) granting an increase of pension to Sarah E. Treadwell.

INDIAN APPROPRIATION BILL.

Mr. THURSTON. I ask that the conference report on the Indian appropriation bill may be laid before the Senate.

The PRESIDENT pro tempore. The Chair lays before the Senate the conference report.

The Secretary proceeded to read the conference report on the disagreeing votes of the two Houses upon the bill (H. R. 7433) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1901, and for other purposes.

The PRESIDENT pro tempore. The Chair is informed that the conference report has been read in full to the Senate, and appears in the RECORD. The question is on agreeing to the report.

Mr. PETTIGREW. Mr. President, I find that on page 48 of the bill amendments numbered 60 and 61 were disagreed to, the Senate conferees receding. These two amendments increased the appropriation for the Indian Insane Asylum in South Dakota from $15,000 to $20,000. The Commissioner of Indian Affairs came before the Committee on Indian Affairs and stated that with this increase a stone fireproof building could be built, and that without it it could not be. I should like to know the reason why this provision was dropped out in conference under the circumstances; or whether any further information regarding it has been secured by the conference committee not within the knowledge of the Committee on Indian Affairs?

Mr. THURSTON. Mr. President, your conferees in the matter of additional appropriations for buildings and other matters provided for by the Senate amendments succeeded in securing the consent of the conferees on the part of the House to all amendments of that character of the Senate, with the exception of $25,000 for a building at Fort Lewis, Colo., of $2,000 to three different points in South Dakota, and of $5,000 in Idaho.

All I can say further is that the committee found it impossible to secure an agreement with the House conferees on any other basis than that which we have reported. We stood out stubbornly for all these amendments, and at one time we thought we were successful in securing the consent of the House conferees to the amendments of the Senator from South Dakota, but later it was found impossible to do so.

Mr. PETTIGREW. Then there was no special reason urged why this should be stricken out, but it was simply stricken out because it was the desire not to spend any more money. Was that the argument?

Mr. THURSTON. It is probable the Senator from Connecticut [Mr. PLATT] or the Senator from Arkansas [Mr. JONES] can answer more fully on that matter than I. After we had nearly completed our conference I was absent from the city for a time, and these particular items were disposed of by the other members of the committee.

Mr. PLATT of Connecticut. Mr. President, I do not know that I can state fully the objections which were made by the House conferees, and I do not know that I ought to state them if I could; but I know that we struggled with the House conferees until struggling was no longer of avail, and the only way we could retain the amendment at all was by a reduction. The committee of conference had this bill, I think, for three weeks. We had conference after conference, and finally in order to get an agreement we had to recede in some matters, and this was one of them.

Mr. JONES of Arkansas. What particular amendment is referred to?

Mr. PETTIGREW. I will state to the Senator from Arkansas that the amendment in controversy is a reduction of the amount agreed to by the Senate for enlarging or completing the Indian insane asylum in South Dakota. I want to know why that item was stricken out, inasmuch as the Commissioner of Indian Affairs had informed the Senate committee that with this increase he could build a fireproof stone building, which was thought a very desirable thing to do, and without it he could not.

Mr. JONES of Arkansas. The amendment was resisted by the House conferees on the ground that there was no necessity for increased appropriations; that there was enough carried in the bill as it was, and they were not willing to make the appropriations any larger.

Mr. PETTIGREW. Did the conference committee get any further information from the Department on the subject?

Mr. JONES of Arkansas. Nothing further than the statement that the additional amount would be necessary to authorize a stone fireproof building instead of a brick building; but the arguments presented on the part of the Senate conferees did not satisfy the House conferees that there should be an increase in the appropriation, and they refused to agree to it.

Mr. PETTIGREW. There is another item I want to inquire about. The House provided for $6,000 to put in a water supply at the Flandreau Indian school. The Senate struck it out. I see the Senate conferees have receded, and therefore that item remains in the bill and there is to be a separate water supply at this school. The reason the Senate struck out the House provision was because this school is adjoining the town of Flandreau. The town of Flandreau has a water system; they have connected their mains with the school; and they are furnishing fire protection as well as water to the school. In the face of that fact it is proposed to build a plant at a cost of $6,000, which, in my opinion, will not furnish fire protection, but which probably will furnish water. I should like to know what good reason can be given why that should be insisted upon.

Mr. THURSTON. Mr. President——

Mr. PLATT of Connecticut. With the permission of the chairman of the committee, my recollection about that matter is that the school was being furnished by a water company at Flandreau adjoining; but it was insisted by the conferees that the price paid for water was very exorbitant, and that, as the school was at the mercy of the water company, it was better that the school should have an opportunity to put in its own plant unless it could obtain reasonable terms from the water company at Flandreau, so as to give them the discretion either by negotiating a better agreement or by putting in their own water.

Mr. PETTIGREW. Mr. President, this provision does not give any such discretion:

Water rent, $1,500; for permanent water supply, $6,000.

There is no water company at Flandreau, but the city put in its own waterworks. There are 350 scholars at this school, and the mayor of the town informs me that the school uses more water than the entire town, which is a very small place of about 1,000 inhabitants; that the school is improvident in the use of water, and yet the charge is but $1,500 a year. Coal in that country is worth $4 a ton. If we put in a plant, we must have an engineer, and we must, if we have fire protection, have one night and day; then we must buy the coal to run it, and we will absorb more than $1,500, in addition to the interest on the $6,000 which goes into the plant, besides the wear and tear of the plant, the constant renewals, repairs, etc. It seems to me to be an exceedingly improvident provision. The Senate conferees ought to have insisted upon adhering to the action of the Senate.

I think, also, if the conferees had notified me of the fact that they could not secure an agreement, when the actual facts were placed before the conference committee this trouble would have been avoided. I think this is unjust to the town of Flandreau, a town of a thousand people, which has put in a water system at a cost of $25,000 and connected it with this school, so as to furnish fire protection as well as water. They have an abundant pressure, so that they can throw a stream over any building in the plant, and it seems to me unjust for the Government to go on and build a plant now, to discard and throw away the pipes which the town of Flandreau has laid. This plant was largely put in because the school was there. The water rent charged was not exorbitant. I do not think the Senate conferees ought to have yielded this point. It is a mile from the school to the town. Water mains were laid from the town to the school, and at the end of one year for the Government arbitrarily to come in and put in a plant, which will cost the Government more to maintain and will not give so good service, it seems to me is bad economy and bad management.

Mr. THURSTON. Just a word, Mr. President. It was the opinion of the Indian Department that the water rent at the Flandreau Institute was entirely too high, and the Commissioner of Indian Affairs had endeavored, in various ways and at various times, to secure a reduction of this water rent. My recollection is that it was originally $1,250.

Mr. PETTIGREW. One thousand dollars. I will state that the Commissioner never did try to secure a reduction, because Congress always fixed the rent at $1,000, and so he had nothing to say about it.

Mr. THURSTON. The Commissioner advised us that the water company——

Mr. PETTIGREW. It is not a water company. It is the town that owns the plant.

Mr. THURSTON. Well, the town, or whatever it is. The Commissioner believes that because they had the power to do it they raised the water rent to an unfair and unconscionable figure.

During the consideration of this matter by the Committee on Indian Affairs, before the Senate acted upon the bill, we endeavored by wire to secure an arrangement from the authorities of the town of Flandreau for $1,250 water rent. That arrangement was refused. If that had been granted at the time, there is no question as to what the conferees would have done. We would have

agreed to let the water rent stand at that amount; but feeling that the Government was really, as they say on the street, being "held up" in this matter, we decided to yield to the judgment of the House conferees.

Mr. PETTIGREW. I will say in that connection that this school had 150 pupils, and when it paid $1,000 a year for water rent it was a year's rent for 150 pupils; but we wanted connection with the water system of the town, and the Government was glad to secure it, because it gave fire protection; but they have increased the school, they have more than doubled it, and there are now 350 pupils. Therefore $1,500 a year is not as high in proportion as the old rent which we paid. I still think it is an improvident provision and ought not to have been agreed to.

Mr. JONES of Arkansas. The Commissioner of Indian Affairs stated that the expense for water would be very materially reduced by getting in this water plant. The responsibility is with him. If he fails to reduce the cost of the water supply by putting in this plant, of course he will be accountable for it; but if, on the other hand, he can materially reduce the expense of water to the school by putting in this plant, he will be entitled to the credit for it. All the responsibility rests upon him.

Mr. PETTIGREW. Mr. President, it seems to me the responsibility is with Congress, for about the time he fails to do it Bryan will be elected President and the Commissioner of Indian Affairs will go out of office. Therefore it seems to me the responsibility rests on Congress and not on the Commissioner.

Mr. TELLER. Mr. President, I know there is no particular propriety in discussing this report after the committee has reached an agreement, for I suppose we shall be obliged to accept it. I believe, however, that if I had had an opportunity to say to the conference committee some things I have said to some members of the committee when I understood they had agreed to leave the Fort Lewis item in the bill, I believe it might have been left in the bill. This item was indorsed by the War Department. The statement was before the committee, showing that there was great necessity for this increase of the buildings for the purpose of meeting the demands upon that school, which is a very successful school, one of the most successful in the United States. We simply defer doing what we have professed we were intending to do, to put within the reach of the Indians opportunities of education. There is no reason in the world why that provision should have been stricken out.

Mr. PETTIGREW. I should like to call the Senator's attention to the statement of the chairman of the committee that the items stricken out of the bill were from Colorado, South Dakota, and Idaho. Everything else was agreed to. It seems to be the tendency not to spend any money in those States until a little later in the year.

Mr. THURSTON. Mr. President, that statement of the Senator from South Dakota is, I will not say unfair, but it creates an unfair impression. We did leave in the bill other increases for each one of those several States.

Mr. PETTIGREW. Mr. President, I do not want to say anything unfair of the chairman of the committee, because he is a very fair man, but I understood him to say the reductions were in those three States.

Mr. THURSTON. The only Senate amendments for increased appropriations for buildings, etc., that we lost in conference were in the three States I have named, but in those States we also saved other appropriations which had been put on the bill in the Senate. There certainly was no purpose either on the part of the conferees of the House or of the Senate to discriminate in favor of or against any particular State.

Mr. TELLER. Mr. President——

Mr. THURSTON. I will say to the Senator from Colorado that I believe his amendment ought to have remained in the bill, and the committee—I think the Senator will take my word for it—on the part of the Senate did everything in its power and held this bill in conference a long time in order to retain these various amendments.

Mr. TELLER. I am not blaming any member of the conference committee on the part of this body, at least; but I think it is rather unfortunate that the reduction should have been made in providing school facilities. There is a provision left in the bill for one of the schools in Colorado, not as large as it ought to have been, but it may answer the purpose. It is perhaps the most meritorious, as it is now the most needy, of the schools. I have no doubt the committee did what they thought to be a proper thing, but I regret very much that they could not have retained the additional appropriation for that school for the Indian children.

Mr. PETTIGREW. Another item in the bill is in regard to the Indian school in South Dakota. The Senate put on a provision——

SENATOR FROM MONTANA.

The PRESIDENT pro tempore (at 1 o'clock p. m.). The Senator from South Dakota will please suspend. The Chair lays before the Senate a resolution; which will be read.

The Secretary read the resolution reported by Mr. CHANDLER, from the Committee on Privileges and Elections, April 23, 1900, as follows:

Resolved, That William A. Clark was not duly and legally elected to a seat in the Senate of the United States by the legislature of the State of Montana.

Mr. PLATT of Connecticut. The Senator from New Hampshire [Mr. CHANDLER] is not now in his seat, and I ask that the resolution may be temporarily withheld.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent that, while retaining its place, the resolution may be temporarily laid aside.

Mr. PLATT of Connecticut. Until the Senator from New Hampshire comes in.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and that order is made.

INDIAN APPROPRIATION BILL.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7433) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1901, and for other purposes.

Mr. PETTIGREW. The Senate committee placed an amendment on the bill increasing the appropriation for the Indian school at Chamberlain, S. Dak., $10,000, to build a dormitory. In the State of South Dakota we have about 22,000 Indians, and the school facilities are not sufficient to accommodate them. It seems to me that if any item ought to have remained in the bill, that one should have remained in it. In some of the States, I believe, they have more facilities than are necessary for the Indians within their borders. I can see no good reason why increases should be made in adjoining States, as they have been made in this bill, and this item stricken off, unless the purpose be to take the Indians out of our State to educate them. We do not object to taking the Indians out of the State to be educated; we would be glad to have the whole Indian population go if they would never come back; but, inasmuch as they are a part of us and are ultimately to become citizens of our State, we feel that we have a right to have them educated within the borders of the State, and that such an amendment as this ought not to have been stricken out.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

CUBAN INVESTIGATION.

Mr. BACON. Mr. President, I ask that the resolution relative to the receipts and expenditures in Cuba may be laid before the Senate.

The PRESIDENT pro tempore. The Chair lays before the Senate the resolution submitted by the Senator from Georgia on the 11th instant.

The Senate resumed the consideration of the resolution submitted by Mr. BACON on the 11th instant, as follows:

Resolved by the Senate, That the Committee on Relations with Cuba is hereby directed to investigate and report to the Senate as early as practicable regarding the moneys received and expended in the island of Cuba, by, through, and under the officials and representatives of the United States, both civil and military, from the date of the occupation of Cuba by the military forces of the United States until and including the 30th day of April, 1900.

Said committee shall investigate and report as to receipts, as follows: From customs, from postal service, from internal revenue, from all other sources, specifying the details as far as practicable, and particularly the places where and dates within which said amounts were collected or received, and the officer or officers collecting and receiving the same, as well as the law or authority under which said amounts were in each instance so collected or received.

Said committee shall investigate and report as to the expenditures of the said amounts so received, the necessity and propriety thereof, specifying in classes and in detail so far as practicable said expenditures, and particularly the work, services, or property for which said expenditures were made, and the value thereof; also the law or authority under which each of said expenditures was made, the officer, civil or military, by whom said expenditure was authorized, and the officer, civil or military, by whom said expenditure was made, and the particular fund from which the money was taken for said expenditure.

Said committee shall also report a statement of all public works of every kind, including buildings, wharves, railroads, and all other structures built or constructed, improved, repaired, or decorated by or under the authority of any such officer, civil or military; and in each instance the cost, value, necessity, and propriety of the same, and the uses to which said buildings or structures have been put. Where said buildings and works were constructed or improvements were made by contract, or where the material used in the same was furnished by contract, the committee shall report copies of each of said contracts and the names of all parties interested in each of the same.

Said committee shall also report a statement of the personal property which was purchased or procured and intrusted to any officer, civil or military, in Cuba within said time, the cost and value of the same, and the uses to which said property has been put, and the disposition which has been made thereof.

Mr. BACON addressed the Senate. After having spoken for fifty-five minutes,

The PRESIDING OFFICER (Mr. KEAN in the chair). The Senator from Georgia will suspend. The hour of 2 o'clock having

arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (S. 2355) in relation to the suppression of insurrection in, and to the government of, the Philippine Islands, ceded by Spain to the United States by the treaty concluded in Paris on the 10th day of December, 1898.

Mr. PLATT of Connecticut. Does the Senator from Georgia desire to conclude his speech to-day? If so, I will take pleasure in asking that the unfinished business be temporarily laid aside in order to enable him to do so.

Mr. BACON. I would like very much to do so. At the same time I dislike to incommode my friend from Wisconsin [Mr. SPOONER], who has also an unfinished speech. But as there has been a break in his, possibly it will be an economy of time on the part of the Senate to permit me to conclude rather than to let me take a fresh start. We had an illustration yesterday from the Senator from Wisconsin showing that that course produces delay.

Mr. PLATT of Connecticut. I ask, then, that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut? The Chair hears none. The Senator from Georgia will proceed.

Mr. BACON. Mr. President, as within a few days past I addressed the Senate somewhat at length upon these resolutions, what I now shall say will not be in the nature of an elaborate discussion of the subject involved, but instead thereof a somewhat cursory discussion of some of the points which have been raised by the speech made on yesterday by the Senator from Connecticut [Mr. PLATT].

That distinguished Senator, in a very earnest and able speech, sought to present to the Senate the reasons why these resolutions should not be adopted and why there should not be an investigation by a committee of the Senate. It is true that the Senator said that for certain reasons the resolutions should be adopted and the investigation should proceed. The Senator alleged that he had reached this conclusion not because there was anything in the situation or in the facts or in the probable facts which, in his opinion, warranted and required an investigation, but because, as stated by the Senator—

> The charges by way of insinuation, innuendo, rumor, scandal, and mud throwing have made it necessary that this investigation should go on.

That is the distinct ground upon which the Senator bases his consent that there should be an adoption of these resolutions and that the investigation should be had.

The Senator in the course of his argument addressed himself to what may be considered as two considerations urged by him why these resolutions are not of themselves proper and justified. In the first place, the Senator takes up the conceded fact that there has been an embezzlement of the Cuban funds and argues that, so far as that particular embezzlement is concerned, or rather the embezzlement in that particular department, there is no need of a legislative investigation, for the reason that there is now pending a departmental investigation, which is all-sufficient in itself, and, as suggested by the Senator, an investigation on the part of the Senate would not only be unnecessary, but would interfere with the proper conduct of that investigation by the Department. I read the language of the Senator:

> I think, Mr. President, that we can not well interfere with the investigation which is being made by the executive department and by the Postmaster-General. To interfere with it while it is going on would defeat very likely the ends of justice.

In another part of his speech the Senator, after presenting the reasons why the embezzlement in Cuba in the postal department does not make necessary a Congressional investigation, and that in fact it would be improper to make it, referring to the matters charged and alleged relating to extravagance and waste and misappropriation and jobbery in the expenditures in other departments in Cuba, the Senator uses this language:

> I have seen nothing of fact which I think renders a Congressional investigation necessary; nothing of admitted fact, nothing of proven fact, which requires any investigation, unless it be the defalcation to which I have already alluded.

Thus it is, then, Mr. President, that the Senator bases his approval of the adoption of this resolution and of the proposed investigation solely upon the ground of the statement from him, which I first read—

> That the charges by way of insinuation, innuendo, rumor, scandal, and mud-throwing have made it necessary that this investigation should go on.

The speech of the Senator then leaves the issue still joined between us, as to whether or not the charges which have been made, and the probabilities of their truth, are such as to make the investigation a proper investigation, one which is called for and thereby made a duty on the part of the Senate.

Mr. President, referring for a moment to the framework of these resolutions, it will be noted that, as was developed in the discussion on yesterday, an amendment had been offered by me to the resolution previously offered, providing authority to the committee to send for persons and papers, to swear witnesses and employ stenographers, to hold its sittings in the United States and in Cuba, etc. The Senator from Connecticut thereupon indicated that the resolution, so far as it went, was agreeable to him, but desired to add power on the part of the committee to employ an expert accountant, the propriety of which I recognized, and so I agreed to it. As his amendment, with that exception, was substantially the same as the one which I had previously offered, I agreed that that should be attached as the amendment to the original resolution.

My allusion to that is to call attention to the fact that the investigation which is proposed will be one in which, however important may be expert accountant, there are other branches of the investigation much more important than that which depends upon what can be discovered by an expert accountant. As I had occasion the other day to say, an expert accountant can trap the plain thief, the man who taps the till, the man who takes money, and who seeks to conceal the theft by making no entries or by making fraudulent entries; but the man who steals money in that way is not the man who is the great plunderer of public funds.

A man who steals money in that way steals his thousands; but the man who secures that which he is not entitled to out of the public Treasury through jobbery, through dishonest contracts, through fraudulent devices of all kinds, which may appear to be all right upon the books, and yet in fact all wrong as to the disposition of the money—that is the man who does not simply defraud the Government of thousands but of millions of dollars; and the great purpose of this proposed investigation is not simply to ascertain the comparatively paltry amounts which have thus been stolen in money, and which may be found by an expert accountant, but to ascertain whether or not in this expenditure of over $14,000,000 there has been an honest and economical disposition of the money, or even in case the books do balance, and it is shown that the money was actually paid as represented by the books, whether it was honestly and economically expended, or whether any part of it was misappropriated and dishonestly applied to grossly swollen and fraudulent salary rolls, or to property not for public uses, or to the payment of fraudulently overvalued property bills, or to any jobbery or other illegal devices.

In illustration of that, Mr. President, I ask the attention of the Senate to the question involved in the post-office embezzlement to see whether or not the investigation which is being pursued by the Post-Office Department, as honest and as earnest as I concede it to be and as I believe it to be, will disclose the facts which we desire to have disclosed and made public by this investigation.

What are the things which the Post-Office Department is investigating with reference to this post-office embezzlement? It is charged that this man Neely and his confederates, so far as disclosures now indicate, or up to yesterday indicated, embezzled some $45,000; and that was the amount stated by the Senator from Connecticut yesterday.

Mr. PLATT of Connecticut. For this current year.

Mr. BACON. Yes; for this current year. There may be others for the time preceding January 1, 1900, and there is every reason to believe there are. Those may also be discovered by the expert accountant and I hope will be, and I do not mean in any manner to depreciate the necessity of the expert accountant, and I think the Senator is entirely right in desiring that the power to employ an expert accountant shall be put into the resolutions. I am simply using the provision for the expert accountant as the thing which has suggested to me this comparison, and to show the vast reach necessary in this investigation, very far beyond that which can be accomplished through the aid of any accountant.

It was also stated in the afternoon papers yesterday and in this morning's papers that the intimation which we had some time ago that there might be instead of $45,000 some $400,000 of embezzlement through the dishonest sale of stamps may possibly be and probably is true; but conceding that all these facts will be established by the investigation by the Post-Office Department, we come to other accounts where it is necessary that there should be an investigation by a body sitting as a tribunal to examine witnesses and to have persons and papers brought before it and to search to the bottom not only the question as to whether money has been taken out of the till, not only whether the money has been stolen by the illegal sale of stamps, but whether money which appears by entries upon the books and for which they may have vouchers has been legally and legitimately and honestly and economically expended.

What are those items? I will state that I hold in my hand Document No. 177, part 2, which is a supplement to the original Document No. 177. It is a communication from the Secretary of War responding to instructions of inquiry from the Senate, and in this supplemental report there is for the latter half of the year 1899 what purport to be some eighteen or twenty different separate accounts of expenditures in Cuba, giving the matter somewhat more in detail than was found in the original report, but still in a very general way. This postal account is one of the accounts

contained in this report; that is, for the entire year 1899. Most of the accounts in the report are for six months. From January 1 to December 31, 1899, for the department of posts, the expenditures were $612,290.38, and it is shown by other reports that the entire receipts from that department in Cuba for that time amounted to $250,000.

As to the items of expenditure, which I submit are items that call for a thorough and searching investigation on the part of a committee either of this House or the other House—I am very frank to say that I would very much have preferred if this investigation had been undertaken by the other House, but as it has not been, we should proceed with it here—the very first item upon this account is an item which appears not only in this account, but in a'most every other account in this report with wonderful frequency—"miscellaneous." "Miscellaneous, $49,544.86." The expert accountant, and the investigation which is being proceeded with by the Post-Office Department, will disclose the fact that there were $49,544 thus expended; but what the Senate will wish to know, and what the country will wish to know, and what the country will know, is for what was $49,544 spent and charged up and reported to Congress simply as "miscellaneous."

Well, the next expenditure is "salaries." By the way, that is another item which appears in each one of these accounts with alarming frequency and with the utmost liberality of amount. I shall have something to say before I get through upon the subject of the amount of money which has been spent in Cuba for salaries. "Salaries, $219,087.91." I have no doubt that those salaries were paid, but to whom were they paid, to what officers, and what services were performed by these various parties?

Now, mark you, the salaries amounting to $219,087 are not for the ordinary employees of the Post-Office Department. They are salaries for the "department of posts." Thereafter follows an enumeration of salaries for the ordinary employees. In addition to the $219,087 paid under the head of "Salaries—department of posts," we have these salaries:

Clerks in post-offices, $35,672.90.
Postmasters, $87,364.39.
Railway postal clerks, $24,279.49.
Letter carriers, $17,927.24.

Mr. President, in those four classes we have enumerated the ordinary employees of a post-office department who execute and carry on the postal service—clerks in post-offices, postmasters, railway postal clerks, and letter carriers. Those are the men who operate the detail machinery of the postal department outside of that used in the transportation of the mails, and for the year all these officers thus operating the ordinary postal machinery of the department received only $165,242, but in addition to that and in addition to these men who thus operate the ordinary machinery of the postal department, under the single head of "Salaries, department of posts:" is $219,087.

Now, I say that the most ordinary requirement on the part of Congress is that there shall be an investigation to know who are the people who, under the head of department of posts, have received $219,087, when they do not include in any way clerks in post-offices, postmasters in Cuba, railway postal clerks in Cuba, or letter carriers in Cuba, or the transportation of mails, either by contract or otherwise. I state this now simply by way of illustration, because there are many other items in this account requiring investigation. It may be that an investigation will show it to be all right, but it is certainly devolving upon us to ascertain that it is all right.

Another thing. Senators say that it is not proper to interfere with the Post-Office Department in such an investigation. Here are accounts which have been for six months in the Post-Office Department, and while they had no knowledge of any embezzlement, they did have knowledge of those most extraordinary and startling expenditures, and no investigation has been made or ordered or attempted by the Post-Office Department.

Mr. President, there are other most extraordinary items. I can not stop to go through them all, because there are a great many things here, and I can only touch on a few of them hastily. Let me call attention to one—per diem. After all these salaries here is "per diem, $17,313.39." Who authorized per diem to be paid, and to whom was it paid and of what amount? That is certainly a matter for investigation.

Carriage, harness, equipment, $3,105.26.

For whom were the carriage and harness and equipment, and under what law? When my eye first fell upon that item I thought possibly under the head of carriage there was included provision for the carrying of the mails, but that is not true, because other items in these accounts show that it was provided for otherwise. We have here under the head of mail transportation $14,231. We have mail wagons, $1,085; we have star-route contractors, $14,496, and we have mail messengers, $1,733, etc. So that carriages and harness and equipment do not apply and are not intended to apply to the carrying of the mails, and it is a matter of investigation and proper investigation as to who has had harness, who has had carriages and equipment, out of the public funds of Cuba as a part of the postal service in that island, and under what head there has been placed the expenditure, if any, for the horses that drew these carriages.

I wish to call attention to another matter before going on with some brief allusions to these various accounts. The original document, No. 177, on page 107, has a statement of receipts and expenditures in Cuba tabulated in brief. Under the head of receipts there are four sources of revenue enumerated—first, from customs; second, from postal service; third, from internal revenue, and fourth, from miscellaneous sources. These two documents, the original and the supplement, are made up, I presume, from exactly the same papers; they certainly ought to be; and yet there is a discrepancy of $30,000 between the original report and the supplemental report as to the amounts of money which have been received in Cuba during the year 1899—the very direct, identical sources of revenue being enumerated in the one instance as in the other.

Now, let me give the statement. I shall include this table on page 107 in the appendix to my remarks. The total from these four different sources is $16,346,015. In the supplemental report from exactly the same sources of revenue the amount received is put at $16,316,500. I do not read that for the purpose of showing that $30,000 has been stolen, but I do read it for the purpose of showing that there has been such looseness, such an absolute indifference to all the requirements in the keeping of accounts as are provided in our own Government, as calls for the most searching investigation on the part of Congress.

I will state another thing. Under the head of expenditures the same items of expenditure to the number of five are stated in the original report as are stated in the supplement, and yet I believe without exception there is no single item in the original in which the amount of expenditure is stated as the same amount that the same item is stated in the supplemental report. The items are found on page 107 of the original report and on page 2 of the supplemental report. That is another reason why there should be an investigation to understand why it is that there is this looseness. How is it that there is an utter absence of specific, accurate keeping of public accounts there which should be required everywhere, and which is required in this country?

Mr. FAIRBANKS. Mr. President——

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Georgia yield to the Senator from Indiana?

Mr. BACON. Certainly.

Mr. FAIRBANKS. I am not sure that I correctly heard the Senator's criticism of the schedules furnished by the War Department, but I wish to call his attention to a statement made in the report of General Brooke on page 418, being his annual report for the year ending June 30, 1899. He says, after expenditure, under the head of statement of revenue and disbursements to and including June 30, 1899, the following:

The expenditures shown above include all payments to date, August 19, as payments are yet being made on account of the fiscal year ending June 30, 1899. For this reason the total amount of expenditures on statements made may be different on different dates.

I simply allude to that for the purpose of suggesting to the Senator whether the schedule from which he is reading is not one that might be modified in the manner indicated by General Brooke.

Mr. BACON. I do not know. I have two accounts sent here from the War Department not very far apart in point of time, so close together that one is sent by the Department as a supplement to the other, and the second in response to exactly the same resolution as that under which the original response was made, and in the two reports there is this marked difference between their statement of the same item in the one and in the other.

I repeat that in the revenues received from four sources named in the original report, and in the revenues named in the supplemental report as received from the same sources, and both for the year 1899, there is a difference of $30,000. In order that I may not be misunderstood I will give Senators the pages. I refer to the items enumerated on page 107 of the original report and on page 2 of the supplemental report. I am simply calling the attention of the Senate to a few of the very many items stated in these reports which call for investigation and for legislative investigation.

Before going on, I want to call the attention of the Senate to one other matter, and that is the peculiar way in which reports are made of these expenditures. Very frequently two subjects-matter are included in the same account where there can be no legitimate relationship between the two. Why the one should be mixed with the other I am at a loss to understand. For instance we have the accounts of "Rural guard and administration." What does "administration" mean? What is "rural guard?" I say it is impossible from the inspection of the accounts rendered under the head of "Rural guard and administration" to know for what this money was spent, and that it is necessary not only that

books should be examined, but that witnesses should be examined in order that we may ascertain for what this large amount of money, $506,162, of which, mark it, the item of salaries is $417,813, outside of the pay roll for labor, which is $27,570.

There are items for property, all sorts of items, without any possible indication of what they are or for what purpose the money was spent, much less any possibility of ascertaining whether even if the subject-matter was correct the prices were correct. Nothing but an investigation can disclose that fact.

Then, again, we have "justice and public instruction" put in one account. Why are justice and public instruction in one account and mixed up and sent here together?

Mr. PLATT of Connecticut. Because that is one of the departments.

Mr. BACON. That may be.

Mr. PLATT of Connecticut. That department includes both.

Mr. BACON. But they are not cognate subjects. One relates to the administration of the courts; the other relates to the schools, I presume—colleges.

Mr. PLATT of Connecticut. It is just like the Department over which the Secretary of the Interior presides, which has lands and pensions and patents and a variety of things in its jurisdiction.

Mr. BACON. The Department of the Interior in making its report to the Government does not put the accounts of these various things together; it separates them. That is what my criticism is; not that there is a department which had charge of these two subjects-matter, but that in making the return of money expended it does not separate public instruction from the department of justice.

"Agriculture and public works." Here, again, the same thing is found. I call attention in this connection to the fact that not only do we have public works in connection with agriculture, but we have another item of public works in connection with ports and harbors, and you will find in other accounts scattered through these items where large amounts are charged, again, to public works. Indeed, it seems that where there was a sum to be tucked away in some manner not convenient to be put under the regular head, it is put under some extraordinary expenditure, or miscellaneous expenditure, or under the head of public works.

Then we have the department of "state and government," "public works, ports, and harbors," "charities and hospitals." Then another, "aid to destitute." It would seem that "aid to destitute" would properly come under "charities and hospitals," but there is a separate department, and in each department the most enormous salary list, I will venture to say, without possibility of successful contradiction, that ever was known in proportion to the public expenditure.

Under the simple head of sanitation we have the enormous amount of $3,052,282. According to the argument of the distinguished Senator on yesterday, because sanitation was important and something which, perhaps, had yielded most beneficial results, the question as to whether or not the money which had been expended for the purpose had been honestly expended should not be considered. Grant all that he says about sanitation; it does not relieve us of the proposition that where such an amount as $3,052,282 has been expended under the simple head of sanitation there ought to be an investigation of it to ascertain if it has been economically and honestly expended for this purpose. In this connection I call attention to the fact that in this detailed report in which these various accounts are set out there is no report of an account for sanitation for the whole year 1899, involving this enormous expenditure of $3,052,282, but only a partial account for the last six months of 1899, with an expenditure of $1,688,422.84. The account for the first six months of 1899 is not given. This half year's account, among other things, includes for salaries, $109,539; for pay rolls, labor, $880,799; repairs, $53,730; material, $339,685; property, $126,087, etc.

The same thing is true of "barracks and quarters, $1,269,939," which is only given in the detailed report for the last six months of 1899, from July 1 to December 31, and which contains the most remarkable items. In this connection I call attention to the most remarkable fact, which of itself would require an investigation, and that is that under this call for information the War Department has in this supplemental report sent us the report as to the last half of the year 1899, and has given as a reason why it does not send a report as to the first half of the year 1899 that the reports have not been received from Cuba. With $7,000,000 and over spent, eighteen months ago, nearly, seventeen months since that expenditure began in Cuba, the expenditure of these millions of dollars for the first six months of the year 1899 has never been returned in the way of accounts to the Government. Do these facts indicate that the legislative department can leave this matter to the investigation of the Departments? Do they indicate that we can leave it to the military authorities in Cuba? The accounts of the first six months of expenditures have not been returned to the Government, and when called upon by the Senate for the information the reply is that the accounts have not been received.

Now, Mr. President, I wish to call attention to another matter. I do not go through these matters in detail, because I intend to put these tables in as an appendix to my remarks, but I wish to call attention to several items. After all these enormous expenses under every conceivable head, with a corps of officers receiving salaries under every subdivision of business which could be imagined, we have an omnium gatherum under the head of "extraordinary expenses ordered by the military governor" with a total of the enormous sum of $448,079.92, on page 13 of this supplementary report, a term which, by the way, could be properly applied to each of these accounts; and in it we have such items as the following:

Provincial deputation, $23,058.78.

Can anybody tell me what "provincial deputation" means and for what purpose twenty-three thousand and odd dollars was spent under the head of "provincial deputation?" Can anyone say what the next item means—

Eventual expenses, $31,236.25?

Then, after having had over a million and a quarter of dollars put down under the head of "municipalities," we have the account of "extraordinary expenses," in the supplemental report under the head of "municipalities' deficit," the item of $289,673.86; and so it goes clear through with these various accounts. And then, in addition to the account of "extraordinary expenses," there is a "miscellaneous" account, with the remarkable items involving $109,642.

As I said, I shall put the tables in as an appendix, and therefore I shall not stop now to enumerate them specially, as it would be impossible to do so.

But I do want to call attention to one thing. This is not rumor, this is not newspaper charge; but it is the report of the War Department. In Cuba, for the year 1899, it is stated in the supplemental report that the expenses for civil salaries amount to $3,122,052.

This, however, is misleading. It will be noted, by reference to the tables on pages 14 and 15 of the supplemental report, that all of the salaries are given for the whole of the year 1899 except for the 12 items at the close of the account, beginning with the item "barracks and quarters." These last 12 items are for only six months and aggregate $1,208,535. Assuming that the salaries in these items were as great in the other six months of the year, the same amount, $1,208,535, must be added to the total, and when this is done, instead of $3,122,052 as the salaries paid in Cuba in the year 1899, we have the enormous amount of $4,330,587. This, I repeat, is the largest proportion of salaries to public expenditure that can be found in any government anywhere, certainly on this hemisphere.

Mr. President, it may assist to a realization of the exorbitance of this expenditure for salaries for one year to make some comparisons. In the remarks I submitted on this subject in the Senate last week I included a statement of the annual expenses of certain States, excluding expenditures for education and including all ordinary expenses, including payment of public debt. This Cuban salary list is greater than such expenses in each of these States, besides those of many others—in some of them several times greater—greater than the entire annual expense of each of these States including the public debt: Missouri, Massachusetts, Indiana, Georgia, Mississippi, Arkansas, Kentucky, Tennessee, Connecticut, Texas, Michigan, New Jersey, and Alabama. Mr. President, upon the subject of these expenses, I will venture to read something from a newspaper which possibly may not be objected to by the Senator from Connecticut on the ground that it is one which has any purpose to make campaign material, or one which for any purpose would engage in mud slinging. I read from the New York Tribune of the 22d instant, and, as the Senator yesterday was dissatisfied with the newspapers from which I read, I have thought I would to-day select some the orthodoxy of which, from his standpoint, might not be criticised. I presume the Tribune is one which he will admit to be in the orthodox column. This is what the New York Tribune, in giving a narration of this matter, relates with reference to the matter of salaries and expenditures by these people in Cuba:

WASHINGTON, *May 21, 1900.*

The Assistant Secretary of War, Mr. Meiklejohn, to-day made public a long explanation of the partial report on Cuban receipts and expenditures sent to the Senate by the Secretary of War last week. He said that the report contained "itemized statements showing specifically and in detail all expenditures," etc. How "specifically and in detail" these "itemized statements" are is indicated by such items as "repairs, $53,730.16;" "property, $126,087.91," and "real estate, $38,510;" all of which appear among other items under the general heading "sanitation," covering a total expenditure amounting to $1,688,422.84 for a period of six months.

Further on in the statement of the Assistant Secretary these remarkable and suggestive passages are found:

"The expenditures for the first six months of 1899, as audited, have not yet been reported by the military governor, but such report is nearly completed for transmission to the War Department. For the first six months of 1899 there was allotted by the military governor and paid by the treasurer of Cuba to the disbursing officers the sum of $5,094,796.19 for the expenditures outside of executive departments, while for the last six months of 1899, as

audited and reported for such purposes, the expenditures were $4,377,020.56. Therefore the expenditures during the first six months can not exceed the amount allotted, thus making the total possible expenditures in Cuba $12,516,515.80 for 1899."

Now, Mr. President, that is what the Secretary of War says must be the expenditure, that it can not exceed that amount, and yet the report which is sent in here shows a balance of only $2,000,000 in the hands of the treasurer. An expenditure of $16,000,000 is reported to the Senate. A balance of a little over $2,000,000 is reported and an expenditure of over $14,000,000 alleged, which, of course, would make that a correct balance; and with the Secretary of War himself publishing the fact that under the figures there could be no sum except about $12,000,000, it must necessarily show that the balance reported of $2,000,000 is incorrect.

Mr. PLATT of Connecticut. Will the Senator permit me?

Mr. BACON. Certainly; with pleasure.

Mr. PLATT of Connecticut. I do not know that it is worth while to attempt to go into this question of figures; but if the Senator has made an examination of them, he will see that the first account to which he refers under the head of "Receipts and expenditures" is an account of receipts and expenditures for allowance by allotment to the different departments and that the second account is all the audited account, so that there may be, as with us, and probably is, money covered into the treasury which is not used from the money appropriated.

Mr. BACON. That explanation would be a proper explanation, but it does not appear from these reports. The Senator said if I would examine the figures. I have examined them. The facts may be as stated by the Senator, but they are not so reported by the Secretary of War. The table in this report is headed this way:

Statement of receipts and disbursements of public funds of the island of Cuba from January 1, 1899, to December 31, 1899.

It does not say allotments, or as allotted. It says those are the amounts received and disbursed.

Mr. PLATT of Connecticut. If the Senator has seen——

Mr. BACON. I do not dispute the fact that the explanation may be a correct one. I am simply stating that the report does not make it that way.

Mr. PLATT of Connecticut. If the Senator has seen the statement made by the Assistant Secretary of War, he will see that the explanation was given.

Mr. BACON. I am very frank to say I did not see it, but I am simply taking what is reported here in the Tribune. I do not know how it escaped me, but I have not seen the statement in full; but the reports as sent to the Senate do not make the explanation which the Senator now suggests.

I understand the suggestion of the Senator to be that certain moneys having been allotted to various officers, which they have expended, but the accounts of which having not yet been audited by the Auditor, it may be true that there is in the hands of the Treasurer, as stated in this report, only $2,260,209, and there may be about $2,000,000 out which has been expended in the past year, 1899, of which there has been yet no audited return. I understand that to be the proposition of the Senator.

Mr. PLATT of Connecticut. Either that, or that there is still money remaining unexpended in the hands of the different departments to which it has been assigned.

Mr. BACON. If there could be any stronger illustration of the necessity of an investigation it will be found in the fact that for eighteen months, beginning eighteen months ago, there has been an expenditure ending five months ago of which there has been no return for the first six months, the last of which expired eleven months ago.

Mr. FAIRBANKS. Will the Senator permit an interruption?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Indiana?

Mr. BACON. Certainly.

Mr. FAIRBANKS. Has the Senator examined the annual report of General Brooke?

Mr. BACON. I have been taking the reports which have been sent to the Senate in response to the inquiry as to what have been the amounts received and expended.

Mr. FAIRBANKS. I will read him the report just before me, showing quite a large number of expenditures, submitted under the proper headings.

Mr. BACON. Does the Senator mean to say that General Brooke's accounts do not agree with the accounts which the auditor has sent to the War Department and which the War Department has sent to us?

Mr. FAIRBANKS. I said nothing whatever, except when the Senator said that no reports had been furnished, I asked him if he had examined the statements in General Brooke's annual report, purporting to be of certain expenditures.

Mr. BACON. Mr. President, I am going by the report that the Secretary of War has sent to the Senate. We directed him to send us a statement of all the moneys which had been received in Cuba, and to send us a statement of all the moneys which had been disbursed in Cuba, and he has professed to do so, and, I have no doubt, has done so so far as the papers and returns in his office will permit him to do it.

Now, Mr. President, if these reports thus sent in by the receiving and disbursing officers say one thing, and the report that is sent in by General Brooke, as the military commander in charge of all this matter, says another thing, what higher evidence or necessity could there be for an investigation, and a very searching one? It may be, and I trust it will be found to be so, that the two can be reconciled; that it can be shown how one is correct and the other is incorrect, and that they may be reconciled with an honest disbursement. But, Mr. President, I am speaking of our duty to investigate it—to find out what is the truth.

The Senator said yesterday that the comparison suggested by me as to the expenditures in Cuba and the expenditures of several States in the Union was most startling as presented by me, and then the Senator went on to endeavor to show that it was not a correct statement. But before I go to that, the Senator interrupted me before I had finished reading this article from the Tribune, which I desire to complete. The article in another place says:

The fact that the auditor in Cuba furnished prior to May 16 a statement of disbursements on account of public works, ports, harbors, barracks, and quarters, rural guards, hospitals, and charities, quarantine, sanitation, etc., from July 1, 1899, to December 31, 1899, and was not then able to furnish a statement of expenditures for the same objects for the six months from January 1, 1899, to June 30, 1899, fairly justifies the inference that when the instructions of the Secretary of War to furnish the information required by the Senate resolution were received by the auditor in Cuba last January they found him utterly unprepared to do so, and that he was obliged to collect data for that purpose. Why he did not begin at the beginning of the period instead of at the end of it, if such was not the fact, is a question easier asked than answered, but an answer will probably be required by Congress. Another question to which an answer will be necessary is why the auditor could not give in January, or could not have given months before that time, a statement of the balances in the hands of the disbursing officers on June 30, 1899.

The PRESIDING OFFICER. The Senator from Georgia will suspend. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (S. 2355) in relation to the suppression of insurrection in, and to the government of, the Philippine Islands, ceded by Spain to the United States by the treaty concluded in Paris on the 10th day of December, 1898.

Mr. PLATT of Connecticut. Does the Senator from Georgia desire to conclude his speech to-day? If so, I will take pleasure in asking that the unfinished business be temporarily laid aside in order to enable him to do so.

Mr. BACON. I would like very much to do so. At the same time I dislike to incommode my friend from Wisconsin [Mr. SPOONER], who has also an unfinished speech. But as there has been a break in his, possibly it will be an economy of time on the part of the Senate to permit me to conclude rather than to let him take a fresh start. We had an illustration yesterday from the Senator from Wisconsin showing that that course produces delay.

Mr. PLATT of Connecticut. I ask, then, that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut? The Chair hears none. The Senator from Georgia will proceed.

Mr. BACON. Mr. President, I am very much obliged to the Senate for its courtesy, and especially to the Senator from Connecticut.

Now, I will pause in reading this article from the New York Tribune to call the attention of the Senator from Connecticut to the answer that the New York Tribune gives to the suggestion made by him as to these unexpended balances. I will read the last sentence over, as I was interrupted, and possibly the Senator did not catch the purport of it:

Another question to which an answer will be necessary is why the auditor could not give in January, or could not have given months before that time, a statement of the balances in the hands of the disbursing officers on June 30, 1899.

The suggestion is made here that there is a discrepancy of over $2,000,000 between the report as sent to us by the Secretary of War as to the amount of expenditures and as to the balance which in consequence of that error should be in the hands of the treasurer, and the Senator from Connecticut suggests that these balances are outside in the hands of these disbursing officers. The New York Tribune, not a mud-slinging paper, not a paper seeking to make capital for the campaign adverse to the party of the Senator, asks the question, Why was it, if that is true, that the auditor could not in January state what were the balances in the hands of the disbursing officers six months before then? I think the New York Tribune very properly suggests that Congress will require an answer to that inquiry. The New York Tribune goes on to say:

As a matter of fact it could have been given, unless the regulations promulgated by the Secretary of War a year ago had been ignored.

Which they must necessarily have done. It was somebody's duty to see that those regulations were complied with.

Upon the subject of expenditures in the same article there is the following statement:

The Assistant Secretary explains the heavy expenditures for labor by saying—

This is quoted now from the Assistant Secretary's statement—

"That the expenditure for unskilled native labor seems large is not surprising, when one of the objects sought to be accomplished by this Government in Cuba upon military occupation was the relief of starving people through their employment upon public works. It was our well-defined policy to feed gratuitously the absolutely helpless and starving inhabitants, and to reduce as far as possible such gratuitous relief. This was accomplished by furnishing employment to the able-bodied, thereby making them self-supporting and relieving the prevailing distress and stagnation in business throughout the island by the proper and legitimate use of the revenues upon public improvements, necessary and permanent in their character, and which will inure to the benefit of the people of Cuba."

That is the extract from the statement of the Assistant Secretary of War, and now the New York Tribune makes this comment upon that:

The expenditures on this account during the six months ended December 31, 1899, amounted to $1,382,197.87, of which the sum of $880,799.79 was expended for "sanitation." If the men who did the work were destitute, unemployed, and unskilled, it is not possible that they received more than $1 (gold) each *for a day's work*, and at that rate it would have required 8,744 men working all day and every day except Sundays during that period to earn $1,382,197.87, and it would have taken 5,577 men working all day and every day except Sundays from the morning of January 1 to the night of December 31 to earn the sum of $880,779 charged to labor under the head of "sanitation."

Now, Mr. President, by the fact that the Senator from Connecticut, who on yesterday so strenuously objected or rather criticised the reading of articles from the Washington Post, does not interpose any criticism upon the loyalty of the New York Tribune to the interests of the Republican party, and does not make any suggestion that anything which appears in the columns of the New York Tribune may be set down either to a desire to manufacture campaign material against the Republican party, or be set down to the score of mud slinging, I am encouraged to read some more from the New York Tribune. I think the Senator will find that when he says that this purpose to find out what has been done in Cuba, this design by a proper and searching and exhaustive examination and investigation to ascertain whether or not the money of Cuba has been honestly and economically spent, he is mistaken in attributing it to those who desire to make campaign material against the Republican party, and he will find that the American people regardless of party intend that this matter shall be sifted to the very bottom, and that there shall be ascertained not simply whether correct books have been kept, but that there shall be ascertained whether there has been economical and prudent and honest disbursement of this fund which we have raised in Cuba, not one dollar of which, I repeat, belongs to the people of the United States, and every dollar of which belongs to the people of Cuba.

The Senator is going to find that it will not be limited as he sought to limit it on yesterday, and I can have no higher illustration of the fact than the position which is taken by the New York Tribune in bringing to the light so far as it can what is the truth with reference to this matter. Speaking of the recognition of accountability for these expenditures in Cuba, the New York Tribune of the 22d, in its story, as the newspaper phrase goes, with reference to this matter, said:

This is peculiarly true in the former case—

It had spoken both of Cuba and the Philippines, using the word "former" in referring to Cuba—

This is peculiarly true in the former case, where the United States military authorities are collecting and disbursing the public revenues of Cuba and not those of the United States. A keen sense of this peculiar relation and responsibility has already found expression in both branches of Congress in propositions to appropriate money from the National Treasury to make good the losses the Cuban treasury has sustained through the dishonesty of the agents of the United States.

I trust the Senator will listen to this:

That would in part repair the wrong, but only in part, for it already appears only too evident, even from the imperfect information now accessible, that criminal extravagance as well as official peculation and plain stealing have marked the administration of Cuban affairs in too many respects.

Take the postal service, for example, which is carried on under the magnificent and imposing name of "department of posts," under an official described by the equally magnificent and imposing title of "director-general of posts." Plain "director of posts" was not dignified enough, and so the "general" was added—whereupon the official who bore it immediately proceeded to sustain his new dignity by adding to his official staff and raising their salaries, and having his own increased to a sum which, together with his other official "perquisites," made a total exceeding the official salary of the Postmaster-General of the United States.

He also set up a carriage at a cost of several thousand dollars for the first year—to the revenues of Cuba—and his "miscellaneous" official expenditures jumped from about $5,000 in the first half of last year to nine times that sum in the second half. The combined salaries of himself and the clerks and other employees in his office amounted to more than $219,000 last year, which was about $47,000 more than all the public-school teachers in the island received, and nearly twice as much as was paid in salaries in the department of agriculture and public works, and salaries there were on a generous scale. No wonder that the expenditures for salaries under the "director-general of posts" were classified by both the military governor and the auditor of the island as "extraordinary expenditures."

The sum of $219,000 was expended on the headquarters administration of a postal service which consisted of 535 employees besides the 68 at headquarters; which had 230 post-offices—fewer than there are in any State in the Union; which covered 81 mail routes of every description, with a total mileage of 4,313 miles; which had 45 railway postal clerks and 93 letter carriers, and the total revenues of which amounted to $250,100. Of course, all the salaries under the department of posts, and many other expenses of the postal service, had to be met from the customs revenues or other sources. But the accounts of all the expenditures until within the present month were duly certified and passed by the military auditor in Cuba.

Then the New York Tribune, in substantiation of that, goes forward and sets out one of these very accounts which are in this supplemental report, which I will not now read, as it will be put in otherwise. But it has made a calculation relative to the account under the head of "Finance," and here it is published in the New York Tribune, under the head of "Finance," giving the proportion which salaries bear to all other expenditures in this particular account, and the expenditures were very large, the total expenditures in this account being $211,292. The portion of that amount representing salaries was $187,572.54. Thus it is seen that more than 88 per cent of the entire amount disbursed under the head of "Finance" was paid in salaries. Of "Justice and public instruction" the salaries were more than 83 per cent of the amount expended. Of "Agriculture and public works" the salaries were more than 45 per cent. Under the head of "State and government" the salaries were more than 74 per cent, and under the head of "Posts" the salaries were more than 62 per cent.

Why, Mr. President, the whole possible employment of these men thus legitimately engaged could not have reached this exorbitant amount of expenditure.

Then, putting in another table, which I will not read, because it is contained in this second supplementary report as to the disbursements for six months ending December 31, 1899, the Tribune account goes on to say:

More than 38 per cent of the total expenditures accounted for by the foregoing statement—

That is, the statement of expenditures for the last six months—

More than 38 per cent of the total expenditures accounted for by the foregoing statement are comprised under the head "Sanitation." Some of the items are: Pay rolls, labor, $880,799.79; material, $339,685.10; property, $126,087.91; salaries, $109,539.14; real estate, $38,510; disinfectants, $12,891.95; band stand, $50; removing garbage, $50; royalty on electrozone, $724.82, and school supplies, $23.45. It will be observed that the heading "Sanitation" covered a wide variety of items. So did the heading "Miscellaneous," which is quite a favorite among the disbursing officers in Cuba, some of whom show a tendency to repeat it. Under "Miscellaneous," as a general heading, are found rents, miscellaneous, $14,477.44, followed by plain miscellaneous, $572.68. "Repairs" cost $6,027.04, and repairs to quarters, captain of the port, cost $14,775. There was an item here also for property amounting to $9,527.75; one of $491.77 for material; one of $614.08 for office supplies. Attorney's fees cost the Quartermaster's Department $100, and lawyers' fees cost Mr. Miscellaneous an equal sum, while only $83.25 was paid for trade journals on that account.

Among the items under the heading "Rural guard and administration" are such plain and specific ones as these: Miscellaneous, $1,725.84; property, $11,224.48; trade journals—for the rural guard—$70.90; ammunition, $19, and photographic views, $31.50. The expenditures under the heading "Cuban census" include an item of $26.81 for trade journals—which appear to have had a somewhat wide circulation in the Cuban accounts; one of $402.25 for miscellaneous, and one of $2,584.24 for property.

It may be said that such items signify nothing. The chances are that, insignificant as they may seem, they indicate a good deal that requires further investigation. The reports furnished to the Secretary of War, and by him transmitted to the Senate, show that it is utterly useless for that body to depend upon resolutions of inquiry, however carefully drawn or promptly answered, to obtain facts and information which are of absolutely vital importance to the rescue and preservation of the honor and good faith of the United States in its dealings in Cuban affairs. No satisfactory information can be obtained, nor can all the abuses and irregularities be corrected except as the result of a thorough, searching, and independent investigation by authority and means entirely independent of the officials in Cuba. If the partial and incomplete reports sent to Congress mean nothing else, they do mean and emphasize that.

Mr. President, I think that that might be considered a sufficient answer to the charge of the Senator that I have been engaged in mud slinging, for while the Senator does not mention my name, there is nobody else who has spoken on this subject, and the Senator announced in the beginning of his speech that he did not intend to oppose the resolutions, but that something that I said required an answer at his hands.

I do not intend to dwell upon the serious charge against me—certainly including me—by the Senator from Connecticut, which I have twice read to the Senate, as the reason why this investigation should proceed, but every word that I have said is in print, and I challenge that Senator or any other Senator to put his finger upon a single word in that speech which is disrespectful to anybody, much less a word which can be properly classed under the head of "mud slinging."

I understand the Senator classifies as extravagant and as innuendo and as unfounded charges and as mud slinging the various matters which have been brought to the attention of the Senate and of the country with reference to these alleged improper disbursements in the island of Cuba. I do not think that in any way that can be regarded as a legitimate criticism. It is the duty of Senators to bring to the attention of the Senate anything which, in the opinion of such Senators, may require an investigation; and so far from being the object of criticism, the official who does it should be commended.

It seems that it is not only in this Chamber that there is objection to the suggestion that there has been improper expenditure and dishonest misappropriation; it seems it is not only in this Chamber that there is condemnation of the making public of any such charge. This man Neely, who so far appears to be the principal, but not the only offender, seems to have been brought into his trouble by some one who committed what some people consider an impropriety in "peaching," in disclosing the fact of Neely's dishonesty. He had a young man whom he seems to have befriended, by the name of Rich, and he turned against him in the way of evidence, and that fact has brought down upon him condemnation by Neely's friends. I read, Mr. President, at the risk of incurring the criticism of the Senator from Connecticut for again reading from the Washington Post, an account which the Washington Post gives of the condemnation which has been visited upon Rich because he "peached" on Neely. It is headed "The ingratitude of Corydon." It seems this young man Rich had the classic name of Corydon—Corydon Rich. The article in the Post is headed "The ingratitude of Corydon," and is as follows:

We are bound to confess to a deep and yearning sympathy with the party workers of Muncie, Ind., who have been so cruelly disturbed over the conduct in Cuba of a former fellow-townsman. These honest and devoted gentlemen may be mistaken in supposing that the scandal could have been averted but for him Privately, we think they are. But there can be no sort of doubt as to the question of principle—a question which can be stated in its most compact form by quoting a Muncie special to an Indianapolis paper:

"The feeling against Corydon Rich, who, it is said, confessed to the defalcations in the Cuban postal service, is very strong here, and he is roundly condemned for peaching. He is under obligations to Neely for his appointment, and his confession is pronounced by his political friends the basest ingratitude."

This man Rich has stupidly confessed. His front name is Corydon, but we venture to assert that no true Indiana Phyllis would now so much as look at him. It was a dastard thing he did. Neely had been his guide, philosopher, and friend. Neely had put him in the way of opulence. Taken warmly under Neely's wing, and in a position to see which way the cat would jump, this Corydon should have known how to rake his hay in the hot sunshine of the Cuban snap and stuff his wallet while the orb of day enveloped him in its stimulating warmth. He should have been grateful to Neely. He should have tapped the till while his master squeezed the safe. We quite agree with the spirit of the Muncie special. Rich made the mistake of his life in "peaching" on his benefactor. His duty was to work the opportunity for all that it might be worth, and to thank Neely for the chance.

Ingratitude, thy name is Rich! There is no meaner thing in life. Barrabas, Ali Baba—all the most engaging thieves of history—have felt thy dastard fang. It is with tyrants, emperors, and kings as with pirates, brigands, and freebooters. Marat had his Corday. Neely has his Rich. But it is infamous, just the same. The hot tear fries upon our cheek. The tentacles of one's very soul must reach out and try to grapple with their woe.

Mr. President, if the party who sent that dispatch to Indianapolis had been familiar with the parliamentary language which is sometimes used in the United States Senate, instead of all that elaboration in the dispatch, he would have simply said that Rich had been guilty of "mud-slinging."

In regard to this Habana railroad—and I shall not detain the Senate very much longer—at the time my former remarks were addressed to the Senate I had no information of a definite character as to what that road had cost. I did use the words quoted in the speech of the Senator from Connecticut yesterday by way of illustration, but was careful to say that I did not know the cost, but had heard that it was enormous. Since then the statement is made that the road has cost $342,611. I take it from a press dispatch, but I understand that it also is found in the statement of the Assistant Secretary of War. As to whether or not that was a proper expenditure, of course is a matter upon which evidence must be heard; as to whether it was a proper construction as well as whether it was a proper expenditure must also be ascertained. I know nothing about it. I believe, however, from my limited knowledge of railroad construction, that it must have been a most exorbitant expenditure for something which appears to me, from all I can learn, was very little needed.

There is another fact connected with that railroad to which I want to call the attention of the Senate so as to show how we are keeping up with expenditures in Cuba. I venture to say—and if I am in error I ask members of the committee to correct me—I venture to say that up to six weeks ago there was not a member of that committee of our relations with Cuba who knew the fact that this three hundred and forty-odd thousand dollars had been expended in Cuba for the construction of this road, or that the road had been constructed. I will venture to say that when the subcommittee of the Committee on Cuban Relations went to Cuba and went to Habana they were not informed of the fact—much less called upon to inspect the road—that they were not informed of the fact that such a road had been built; and I venture the assertion that when the members of that subcommittee returned to Washington not one of them brought with him the knowledge of the fact that such a road had ever been built at the public expense, yet it has been built for over a year.

Mr. President, whenever one has some embarrassment in addressing himself to the legitimate point of an argument, it is sometimes a device to put up a man of straw and belabor him and with great muscularity and vehemence; and on that line I presume it was that on yesterday the Senator from Connecticut read with very great indignation the fact that it had been charged that Senators here had some connection with the building of that railroad, and that another high ex-official also had; thereby implying that that charge had been in the remotest degree ever insinuated, or ever contemplated, or ever thought of by anyone who was instrumental in asking for this investigation. Mr. President, I need not say that I had nothing of the kind in contemplation, and that I had never heard a whisper connected with either of the distinguished gentlemen, and that I needed no disclaimer from either one of them to satisfy me that that was the utterance of some idle scandal monger. No disclaimer on their part is required; nobody expects it, and nobody wants it.

But, Mr. President, the merits of the question whether or not there should be an investigation upon legitimate lines are not to be disparaged by such a discussion as the Senator evidently implies, necessarily implies, that one of the injustices of the proposed investigation was that which involved the names of these gentlemen, an utterly baseless and unwarranted insinuation. Sir, there is no issue in this discussion as to these distinguished gentlemen, except the issue which the Senator from Connecticut has made between himself and this man of straw which the Senator has himself set up, and which he has so valorously knocked down.

But there are some things about that railroad that I will not hesitate to speak of—not that railroad in particular, but railroad construction in Cuba—as a matter which requires an investigation; and as I have been so fortunate as to escape condemnation in bringing to the attention of the Senate what the New York Tribune says, I will try it once more.

Mr. President, when I addressed the Senate last week I called attention to the fact that one Robert P. Porter had been sent to Cuba on a mission connected with the revision of the tariff for Cuba; that during five and a half months this Mr. Robert P. Porter had not only drawn a salary of $500 a month, but that he had put in an expense account, and had been paid it, for over $500 a month besides his salary, and that in about five months and a half he had drawn over $3,100 as an expense account—nearly $20 a day for every day, Sundays being excluded. Mr. President, that may have been all right; but that will not be the subject-matter of investigation, I presume, under these resolutions, if adopted, for the reason that that money as to the salary of Mr. Porter and as to his expense account—$20 a day, very nearly—was paid out of the $50,000,000 emergency fund that the people of the United States, through their representatives in Congress, voted two years ago, when we stood in the presence of grave national peril. It seems now that we appropriated more than was necessary.

I am speaking of the fact—I am not trying to intimate, do not intimate, and disclaim any such intention—that the money for his legitimate payments ought not to have been paid out of this fund, because it was after the war was over, when the fund was not needed for the purpose for which it had been originally devoted, and, of course, an expenditure in that line had no particular ground for objection. It is a question of amount solely which I am speaking of, and I am simply alluding to the fact that this can not be investigated although it was expended in Cuba, because it was expended out of a different fund.

But the matter to which I call the attention of the Senate in regard to Mr. Porter's mission to Cuba is this: There has recently been organized in New Jersey a syndicate—this is not stated by me from ever having seen the charter, but is reported to me upon evidence which I understand to be entirely credible—a chartered syndicate known as the Van Horn syndicate, with a capital of $8,000,000, to construct and operate railroads in Cuba as well as in some other island, I understand, possibly in Porto Rico, and it is also stated as a fact—one which I do not personally know, but which I also believe—that this Mr. Porter is now one of the officers or employees of that company, and that he has gone to Europe with officers of that company upon business of the company.

I repeat I can not make that as a charge, because I do not know it to be true, but I do make it as a charge of what is generally reputed and understood to be true. I now repeat what the New York Tribune says on that subject, premising that the particular point is this, in order that Senators may apply the statement here as it goes along, that the original tariff upon railroad equipment in Cuba, railroad iron and all other matters entering into the construction and operation of railroads, was 40 per cent ad valorem; that Mr. Porter in revising that tariff reduced it to 10 per cent, and that immediately subsequent thereto was his connection with this company. Now, here is what the Tribune says about it. Whether true or not, personally I do not know. It is certainly, however, matter brought to the attention of the Senate in such a way as to entitle it to respect and to require investigation:

The keen and jealous scrutiny—

That is from the New York Tribune of to-day—

The keen and jealous scrutiny which is being brought to bear these days on the administration of Cuban affairs is indicated by the attention the last revision of the Cuban tariff is receiving at the hands of Senators and others

who are especially interested in such subjects, and who have enjoyed an opportunity to examine the work. Some of the comments and criticisms heard are far from complimentary to the author of the revised tariff, Robert P. Porter, who was the Superintendent of the last United States Census and is now connected in some capacity with a powerful and wealthy railroad syndicate, which it is generally understood has recently obtained control of most of the railroad franchises in Cuba and is maturing extensive and comprehensive plans for the construction and reconstruction of important lines of railway in Cuba, the carrying out and development of which plans will involve the investment of large amounts of capital and the expenditure of very large sums of money for railway supplies and materials, machinery, locomotives and other rolling stock, etc., virtually all of which must be imported from the United States, England, Canada, and elsewhere, inasmuch as Cuba produces few or none of the articles required.

Mr. CHANDLER. Mr. President, will the Senator allow me?

Mr. BACON. Certainly.

Mr. CHANDLER. I suppose the Senator intends to put in all the article, whether he intends to read it or not?

Mr. BACON. All the article.

Mr. CHANDLER. All this article from which he is now reading?

Mr. BACON. I am going to read every line and word of it. It is not necessary for the Senator to anticipate me.

Mr. CHANDLER. No; I was going to ask the Senator a question.

Mr. BACON. Well, just wait until I get through with that article, please?

Mr. CHANDLER. I will wait until the Senator reads the whole of it.

Mr. BACON. I will read the whole of it. The Senator need not think I will omit any of it. I have too much estimate for the character and dignity of this authority to omit any of it.

The names of some of the active promoters of this important and extensive enterprise were published some time ago, and the list included some of the ablest and most widely known railway capitalists in the United States, England, and Canada—men whose names are a sufficient guaranty of sound and adequate financial backing, wise judgment, long experience, and practical and skillful management in behalf of any enterprise they may undertake. Neither money nor brains will be lacking in the Cuban railway enterprise, and the propect appears to be that the men who are to control it will thereby have also absolute control of the entire railway system of the rich island of Cuba. The exact nature of Mr. Porter's connection with this great syndicate is not known here, but it is inferred from certain newspaper publications some weeks ago when he was in London in company with two of the most active promoters of the enterprise, whose visit to and negotiations in that city were described as exceedingly satisfactory and successful, that his relation was a pretty intimate one.

AN INTERESTING COINCIDENCE.

What has all this to do with the Cuban tariff? That is a proper and pertinent question, the answer to which, while not complete, reveals an interesting coincidence or sequence of events, in which Mr. Porter, as special commissioner to revise the tariff on the one hand, and the organizers and promoters of the big railroad syndicate on the other hand, were both equally interested, but from seemingly opposite points of view. The object of the former, as indicated in his official instructions and explained by himself, was so to revise the tariff as to readjust the rates with a view to reducing those on the articles of universal or general necessity and consumption required by the people, a large proportion of whom were persons of very small or moderate incomes, without reducing the total revenues of the island below the sum annually required to carry on the Government. This was a laudable as well as a desirable object. Of course one of the prime objects of the capitalists, who were about to expend millions of dollars on the construction, reconstruction, and general rehabilitation of the railroads of Cuba, was to get the necessary materials, supplies, machinery, rolling stock, etc., into Cuba as cheaply as practicable. None of those articles were manufactured or produced in Cuba, except to an insignificant extent, if at all, and therefore the tariff duties, whatever they might be, would come out of the pockets of the great syndicate. Of course, therefore, it would make a considerable difference to them whether the tariff was 40 per cent or only 10 per cent. In fact, the total duty on $1,000,000 worth of railroad materials, machinery, and supplies at 10 per cent ad valorem would amount to $300,000 less than it would if the rate were 40 per cent.

LOW DUTIES ON RAILROAD SUPPLIES.

Now, Special Commissioner Porter, who devoted a portion of last winter to the work of revising the Cuban tariff, finished the work in time to have it approved by an order dated March 31, 1900. The new tariff was not to be put into operation, however, until June 15, and the new rates were not made public until the middle of the current month. The average rate of duty on railroad supplies, materials, machinery, etc., under the Cuban tariff framed by Special Commissioner Porter and put into operation on January 1, 1899, amounted to an equivalent ad valorem rate of 40 per cent. The revised average rate on those articles, which is to become operative on June 15 and continue in force for the ensuing twelve months, is equivalent to an average ad valorem rate of 10 per cent. Between the date of approval of the revised tariff and the date of its promulgation, and after Mr. Porter is supposed to have severed his official relations with the Government, he made the voyage to London in company with the railway capitalists before referred to. Doubtless the desirability of railroad development in Cuba may be unselfishly urged, both there and in this country, and a strong argument in favor of substantial reduction of the duty on railroad supplies might be made in the interest of the island. Mr. Porter's friends likewise may be able to furnish a satisfactory explanation of his connection with the affair, but thus far they have not done so, and until they do it is likely to be regarded as rather unfortunate that the author of the Cuban tariff should appear to enjoy such close relations with the syndicate that is directly benefited by this reduced rate of duty.

Now I will hear the question of the Senator from New Hampshire.

Mr. CHANDLER. I wished to ask the Senator if he had any information that Mr. Porter was connected with this railroad beyond what is stated in that article.

Mr. BACON. I have no information except that the fact has been stated to me personally by those who profess to have information. Personally I do not know it. I could not go upon the stand and prove it.

Mr. CHANDLER. The Senator must have noticed that there is hardly any direct charge here that Mr. Porter is connected with it. It says:

The exact nature of Mr. Porter's connection with this great syndicate is not known here, but it is inferred from certain newspaper publications some weeks ago, when he was in London in company with two of the most active promoters of the enterprise—

That he was interested.

I do not know but that he is; but in justice to Mr. Porter it should appear that there is not one particle of evidence that he is, except that he went to London on the same steamship with some of the promoters of this enterprise; and if a man becomes a partner with everybody he takes an ocean voyage with, we are all of us liable to be in ticklish partnerships.

Mr. BACON. The Senator who makes trans-Atlantic voyages every year may be in that trouble, but I am not. I will state this in reply to the Senator. If Mr. Porter were on trial on the evidence furnished in this article, and by the evidence which has been given to me outside of it in the way simply of a general statement, I would be obliged to acquit him, because specific proof would be required to convict him; but if I am considering the question as to whether or not a charge is to be investigated, the evidence need not necessarily go to the extent of that which is requisite for conviction, but is only required to be sufficient to raise a reasonable suspicion or probability of guilt.

Mr. CHANDLER. I desire the Senator to allow me to say that I agree with him in that particular. I should be willing to make an investigation upon the statements contained in the article, and I propose to vote for an investigation; but I wanted attention called to the fact that the statements of the Tribune as to Mr. Porter's supposed connection with this company are almost all innuendo.

Mr. BACON. I will ask the Senator, as this is to be printed, if the statement will not speak for itself as to whether it does go beyond the degree which the Senator specifies, and whether it is necessary to call attention to it.

Mr. CHANDLER. Yes; I think attention should be called to it.

Mr. BACON. I have no objection to attention being called to it.

Mr. CHANDLER. I think attention will be called to the absence of evidence by reason of this colloquy.

Mr. BACON. I take occasion to say I hope it may be proved to be untrue, because if true it does not simply affect Mr. Porter. It affects the Senator from New Hampshire and it affects myself, and it affects every other man who cares for the honor and purity of the public service of the United States, and I do most sincerely care for it. I wish most fervently that everything which has been charged with reference to peculation and embezzlement in Cuba, as to misappropriation, as to wastefulness, as to extravagance, could all be shown to be untrue.

The Senator from Connecticut stated as broadly as can be stated, in his speech yesterday, that the purpose of this investigation is to manufacture campaign material. Did the Senator from Connecticut weigh his words when he said that? What right had the Senator to charge a Senator upon this floor with insincerity in asking for this investigation?

When he said that, did he recollect the fact that if these charges were true they brought disgrace not only upon those who are concerned but more or less upon every citizen of the United States; that it was a dishonor to the Government and to all of its people? Would the Senator say that a brother Senator, standing in his place in the Senate, knowing that these charges, if true, would bring disgrace upon the Government, would bring dishonor upon the public service, would be a humiliation and a shame to every citizen of the United States—would he say that a Senator would bring an accusation which if true would have such direful results and such direful influences, when he did not believe them to be true, and when his only purpose was to manufacture campaign material? Mr. President, I acquit the Senator of meaning what his words imported. I know him too well to believe that he would have such a conclusion drawn from what he said.

In this connection I wish to ask another question. If it be true that the purpose of endeavoring to ascertain the fact whether there have been dishonesty and improvidence and wastefulness and extravagance and fraud in the expenditures of the Cuban revenue is to manufacture campaign capital, which is the more creditable, to endeavor to uncover fraud, to expose embezzlement for the purpose of campaign material, or to attempt to cover up fraud, to conceal the guilty, in order that there may not be campaign material? I deny for myself that the purpose is to manufacture campaign material, and denying that for myself I accord to the Senator that his purpose is not to prevent the discovery of fraud in order that there may not be campaign material. But I submit that if it is a question of the manufacture or the defeat of the manufacture of campaign material, one who stands on the

side of the uncovering of fraud, the conviction of the dishonest, the disclosure of embezzlement, is more to be commended, even though his motive be such as he describes, than the one who will attempt the concealment of all this if only to prevent exposures which, if made, will furnish campaign material to his political opponents.

Mr. President, the Senator from Connecticut, in answer yesterday to the question propounded by myself, and in answer directly to me as to when we were going to get out of Cuba, replied—I am sorry I have not the exact language before me to read, but Senators here will recollect it and the RECORD is on everyone's desk—that that day would be delayed by those who are interfering with the work of the military commander in his efforts to accomplish what is necessary in order that we may evacuate Cuba and withdraw our forces and leave the government in control of its own people. The Senator, in the same connection, said it ought to bring the blush of shame to the cheek of every man who is engaged in that work. What could the Senator mean? Is it interfering with the work of the military commander in Cuba to ask that there shall be an honest disbursing of the funds raised by the revenues of Cuba? Is it interfering with the work to ask that there shall be a thorough investigation to see whether or not this has been done? What else is being done? In what manner? The Senator could not, in his reply, have had reference to anything else but the present proceedings, because nothing else was before us. There had been no mention or suggestion that anybody was making any interference in any way, and the only possible interference to which the Senator could have had reference was such interference as was to be found in this investigation, and this investigation is solely addressed to the question whether or not money has been legally collected in Cuba and whether it has been honestly disbursed.

My cheeks, figuratively at least, do burn with shame as an American citizen with the knowledge of the fact that this trust has been so grossly abused. If I know myself I would scorn myself if I could rejoice in the proof of the fact of this dishonesty because, forsooth, it might benefit the political party to which I belong. I would scorn myself if I would not rather that the opposite party should forever succeed than that there should be this humiliation, this disgrace, not only upon the Republican party but the Democratic and Populist parties, and upon every citizen of the United States. But my cheeks do not burn with shame, and the cheek of no citizen should burn with shame, who, if he has knowledge of the fact that those of his own household are unworthy, that they have betrayed a trust, will, at the expense even of having to acknowledge and share the general disgrace, seek to make disclosure of the fact and to bring the culprits to justice.

Mr. President, the distinguished and learned Senator from Connecticut said yesterday that he saw nothing in the facts outside of this particular defalcation which required investigation as to the receipts and disbursements in Cuba. The Senator is to be charged, if this resolution passes, is adopted by the Senate, with the duty, as chairman of the committee, of making the investigation. Yesterday the Senator from Wisconsin [Mr. SPOONER], in the course of a colloquy with some one, said that when a man went out making a search, what he expected to see he generally found. This is true. Applying the converse of it, how can the Senator from Connecticut expect to find, as the result of his investigation, this corruption and this fraud when he has announced to the Senate, during the course of a most elaborate and earnest and able speech, after several days of investigation, that he does not believe there is anything there to find? The Senator's pride of opinion, after what he said yesterday, will be greatly shocked if the results of this investigation constrain him to report hereafter to the Senate that the administration of public affairs in Cuba had in some features at least been characterized by jobbery and embezzlement.

Mr. President, do we not face a great duty? We have started out upon a road altogether different from that which we have heretofore traveled. Conceding it to be proper that we should pursue that journey, conceding it to be proper that we should cut loose from the past, that we should enter upon a career where we shall govern distant colonies—and certainly no one can ask that for the argument I should concede more than that—if that is conceded to be true, in the presence of this first attempt and in the presence of the undenied fact of this peculation, this embezzlement, this thievery; in the presence of the strong probabilities of the truth of the charges which are everywhere, on the streets, in the halls of Congress, in the newspapers, that there has been extravagant, wasteful, dishonest expenditure of this money, not one dollar of which belongs to us; in the face of this disclosure upon the first experiment, do we not stand in the face of a great and most solemn duty? In view of what we intend to do in the future, conceding for the argument this departure to be correct, do we not stand in the face of a most solemn duty to probe this matter to the bottom; not to go into it saying we do not believe it is there, but to go into it with the determination that at all hazards, not simply shall there be labor, but that there shall be with an open mind and with a determination to get the truth, an investigation which shall probe this matter to the bottom, bring everything into the light of day, vindicate the innocent, and expose the guilty?

Mr. President, there is a great horde of money seekers who are looking to those new openings as a means by which they can fill their pockets. Doubtless there are those who look to honest enterprises in Cuba; no one will question that. But outside of them there is the army of camp followers and job seekers. They do not simply look to small amounts; it is to large amounts. What a day it would have been for the Ancient Pistol, who, when a creditor pressed him to pay a debt of 8 shillings, bade him be patient and wait until he returned from the wars in France; for said he—

> I shall sutler be
> Unto the camp, and profits will accrue.

But to think of 8 shillings—8 shillings in contrast with the millions!

Mr. President, the Senator from Connecticut gave a clean bill of character yesterday to the distinguished gentlemen, I will say, who have been caught in this peculation, this thievery. That reminds me to recur to one matter I had forgotten, and I am glad of the opportunity to do so.

The Senator was accusing me—probably that is strong language, but certainly by implication was putting upon me the charge that for the purpose of campaign advantage, party advantage, campaign purposes, I was willing that these charges should be brought against the civil officers of the Government; that I was discrediting the President of the United States; that I was casting imputations upon the heads of Departments. That charge was absolutely unfounded. I never named the President of the United States. I did not allude to him. I did not say a word which by innuendo or in any other way could be construed into a reflection upon him. I never have done so, and I never expect to. I may criticise the President for differences upon principle; I ought to do so where I differ from him; but I have never spoken a disrespectful word of him in the Senate. I never expect to, and I am sure I never will. Nor did I say a word which reflected upon any member of his Cabinet. I differed from the Secretary of War, not the present Secretary, but the Secretary who issued the order making what I contend are illegal allowances to officers of the Army. It is right and proper that I should do so.

When I came to the Postmaster-General I expressly exonerated him, and I asked the Senator from Connecticut yesterday to read it in connection with the sentence which he himself had voluntarily read out of the speech I made a few days ago. He declined to do so. Now I will read it. I will read the preceding sentence, which the Senator did read, and then I will read the one which I asked him to read and which he declined to read. In discussing the question as to the propriety of this investigation I said this:

> Mr. President, if it were only the Post-Office Department which was involved, there might be a strong argument presented as to why this investigation should be left to the Post-Office officials, because they are a trained body of men familiar with those matters, and perhaps better capacitated than any others for a proper investigation of the facts, and if an investigation shall be entered upon by the Senate those officers must be largely used in the prosecution of the investigation. But it is not a proper thing, in my opinion, in any instance where there has been a widespread conspiracy.

That much the Senator read, and when I asked him to read the succeeding paragraph he declined to do so. It is as follows:

> Mr. President, I do not wish to reflect in any manner on the Postmaster-General. It is unfortunate for him that the first disclosure is of misappropriation in his Department. I have not the slightest doubt he has selected men he thought to be honest. The fault has been in the absolute form of government, the dictatorship, the aping of the colonial system of monarchical governments, under which will ever reek frauds and corruption. There is no man who could occupy the position of the Postmaster-General and endeavor to carry on such a department in Cuba under this system of absolutism, dictated by military orders, but what he would be liable to the same disasters in the administration of his office.

Where is there excuse or justification for the charge made by the Senator that I had in any manner reflected upon the President of the United States, or that I had imputed anything wrong to any officer of his Cabinet? In this connection—and the thing that reminded me of that was this—the Senator from Connecticut yesterday gave a clean bill of character to Rathbone, Reeves, Neely, and Thompson, and he said that they were men who prior to this disclosure had stood unimpeached, had stood high for integrity and purity of character, and that if the President of the United States, in the presence of a great necessity to select the best man, had been guided solely by the question of merit and solely by the record of pure conduct when formerly in office, he would have found no better man than Rathbone. And he calls on Senators to witness that fact. Then he takes up Neely, and he gives him a similar eulogy; and he calls on the Senator from Indiana to bear testimony to the correctness of the estimate in which he held him.

The Senator from Connecticut, in the warmth of his praise and eulogy for these men, made them very angels of purity and integrity.

Mr. President, what does that prove? Grant what the Senator says to be true. It proves the correctness of the statement made by me in my remarks on a former occasion, that it is due to the system, that it is due to the colonial policy, that it is due to the maintenance of satrapies and proconsulates and viceroyalties, and that so long as we continue them we will have to submit to just such humiliation in the frauds and embezzlements which will be brought to light. The great Cardinal said that by the sin of ambition the angels fell, but in this modern day it is a more sordid sin which is dragging them down.

And, Mr. President, if the policy of colonial government is to become a fixed feature of this Government there will be the fall not simply of four angels but of legions of them.

Mr. President, I repeat, do we not stand in the presence of a great duty, a duty higher than partisanship? Do we not stand in the presence of a duty where we should unite in its performance regardless of party? I think that duty is twofold. That duty in the first place is to go to the very bottom, not simply through expert accountants, but through the examination of every witness who can be found or will produce himself, to ascertain everything that has been done in Cuba, in order that we may know to what extent wrong has been done, and in order that when we have ascertained it we may make restitution. I am not in favor of the adoption at this time of the amendment offered by the Senator from Colorado [Mr. TELLER]. While I agree with him entirely in the purpose which he has in view, I am in favor not of making an appropriation of a part. Let us wait and see whether in the place of $200,000 there are millions of dollars of the Cuban funds which have been misappropriated, and if there has been such misappropriation let us make restitution.

Then our further duty, one in the performance of which we can not too soon get together, is to recognize the fact that we are in possession of Cuba under a pledge that we are there for a specific purpose, and that we will not go on drifting for this specific obligation to take care of itself and result as it may; but that in the furtherance of a high resolve to do our duty we will get together and determine what shall be done to bring this matter to a speedy conclusion. We have solemnly pledged ourselves, and, as the Senator from Wisconsin said, we intend to keep the pledge, although there are powerful influences urging its violation; but if we do intend to keep it, we bring discredit upon the loyalty of our intentions by delaying its performance. Now is the time. It is said we have to adjourn. The decree is said to have gone forth. Mr. President, there are some things I should extremely dislike to see done before we adjourn, but of all things I should like to see this nation redeem its pledge before we adjourn, and by an act of Congress fix the day when we will withdraw from that island and leave those people, as we pledged they should be left, in the possession of their own free and independent government.

APPENDIX.

ORIGINAL REPORT OF THE SECRETARY OF WAR TO THE SENATE, FEBRUARY 15, 1900.

Statement of receipts and disbursements of the public funds of the island of Cuba from January 1, 1899, to December 31, 1899.

RECEIPTS.

From customs	$15,011,089.24
From postal service	244,002.33
From internal revenue	787,592.19
From miscellaneous sources	303,331.43
Total	16,346,015.17

DISBURSEMENTS.

Barracks and quarters	$1,209,939.43
Sanitation	3,052,282.94
Rural police and administration	1,445,467.21
Public works, ports, etc	700,126.01
Charities and hospitals	625,783.53
Miscellaneous (includes internal revenue to June 30)	640,329.48
Civil government	345,479.05
Municipalities	1,239,403.65
Aid to destitute	229,912.87
Quarantine	156,813.90
Customs service	810,802.31
State and government	690,334.04
Justice and public instruction	789,897.29
Finance	542,412.83
Agriculture	347,516.93
Postal service	634,929.10
Auditor's and treasurer's offices	206,397.38
Census	357,977.37
Total	14,085,805.32
Balance on deposit to the credit of the treasurer and in the hands of collectors	2,260,209.85

SUPPLEMENTAL REPORT MADE BY THE SECRETARY OF WAR TO THE SENATE MAY 18, 1900.

Statement of total receipts from all sources in the island of Cuba and expenditures made by the military governor, the civil departments of finance, justice and public instruction, agriculture and public works, state and government, department of post-offices, for the calendar year 1899, and disbursements for all other purposes from July 1, 1899, to December 31, 1899, as audited and reported by the auditor of Cuba.

RECEIPTS.

From customs	$15,012,100.10
From postal	250,025.85
From internal revenue	760,880.33
From miscellaneous	293,584.51
Total receipts for the calendar year 1899	16,316,590.79

EXPENDITURES.

[From January 1, 1899, to December 31, 1899.]

Department of finance	$211,292.27	
Department of justice and public instruction	876,640.16	
Department of agriculture and public works	255,421.23	
Department of state and government	640,975.09	
Extraordinary expenses ordered by the military governor	448,079.92	
Department of post offices	612,290.38	
		$3,044,699.05

[From July 1, 1899, to December 31, 1899.]

Public works, ports, and harbors	$268,036.15	
Barracks and quarters	617,755.84	
Charities and hospitals	262,092.79	
Quarantine	3,575.58	
Municipalities	123,113.26	
Civil government	164,281.75	
Aid to destitute	78,539.68	
Customs service	343,985.99	
Cuban census	211,401.80	
Sanitation	1,688,442.84	
Rural guard and administration	506,152.50	
Miscellaneous	109,642.38	
		4,377,020.56
		7,421,719.61

Statement of disbursements from January 1, 1899, to December 31, 1899, made by E. G. Rathbone, director-general of posts of Cuba.

Miscellaneous	$49,544.86
Salaries—Department of posts	219,087.91
Clerks in post-offices	35,672.90
Postmasters	87,364.39
Railway postal clerks	24,279.49
Letter carriers	17,927.24
Telegraph and cables	407.82
Printing and stationery	31,190.48
Furniture	20,672.05
Rent	11,009.14
Light	3,009.59
Per diem	17,313.39
Bonds	1,674.50
Carriage, harness, equipment	3,105.26
Newspapers	41.57
Mail transportation	14,231.19
Mail bags	4,669.93
Letter balances and scales	354.00
Postmarking and rubber stamps	1,963.86
Street letter boxes	2,581.45
Safes	6,292.44
Transportation	7,494.72
Building and repairs	35,931.40
Mail wagons	1,085.00
Star-route contractors	14,496.53
Mail messengers	1,733.96
Exchange	373.19
Refund	100.00
Total	613,098.17
Less warrants canceled	1,317.69
Total	612,290.38

Statement of expenditures under the heading "Public works, ports and harbors," etc., for the period from July 1 to December 31, 1899, as audited and reported by the auditor of Cuba.

Salaries	$36,155.35
Pay rolls, labor	152,656.47
Repairs	3,885.58
Material	49,425.52
Rents, miscellaneous	1,864.46
Miscellaneous	276.27
Property	7,315.73
Stationery and printing	1,040.50
Transportation, travel	530.55
Disinfectants	127.62
Forage	641.15
Transportation, freight	1,488.25
Provisions	1,578.49
Lights, electric and gas	132.84
Rent of tug	280.00
Rent of tugs and lighter	408.00
Office expenses	1.60
Carts and horses	1,200.46
Supplies for light-house	64.37
Dredging	640.00
Repairs to tug	2,387.09
Fuel	534.55
Repairs to wharf	2,000.00
Dry docking and repairs to tug and launches	3,401.30
Total	268,036.15

Statement of expenditures under the heading "Charities and hospitals" for the period from July 1 to December 31, 1899, as audited and reported by the auditor of Cuba.

Salaries	$17,854.03
Pay rolls, labor	76,022.37
Repairs	7,735.65
Material	35,615.79
Rents, miscellaneous	2,085.48
Miscellaneous	254.93
Property	9,021.07
Stationery and printing	3,174.18
Transportation, travel	242.82
Disinfectants	37.55
Forage	72.94
Transportation, freight	1,294.25
Provisions	55,524.01
Post-mortem	150.00
Clothing	2,712.21
Allotment	2,480.00
Lights, electric and gas	331.50
Medicine	5,924.30
Removing garbage	225.32
Carts	29.23
Improvements	4,690.00
Office expenses	41.55
Medical and surgical supplies	5,473.36
Supplies	1,543.21
Aid to hospital	4,123.13
Yellow-fever board	198.00
Aid to orphans	3,789.83
Advertising	14.91
Telegrams and telephone	18.00
Ammunition	16,160.91
Laundry	54.92
Medical examinations	294.00
Emergency purchases, miscellaneous	168.21
Burial expenses	51.17
Rations	3,713.95
Veterinary supplies	568.00
Electrical supplies	1,000.00
Total	262,092.79

Statement of expenditures under the heading "Barracks and quarters" for the period from July 1 to December 31, 1899, as audited and reported by the auditor of Cuba.

Salaries	$8,325.11
Pay roll, labor	189,511.70
Repair	92,565.65
Material	202,376.55
Rents, miscellaneous	41,000.45
Officers' quarters	19,169.83
Miscellaneous	312.56
Property	10,653.65
Real estate	3,000.00
Damage to property by the United States Army	244.97
Stationery and printing	304.61
Transportation, travel	360.39
Disinfectants	12.50
Forage	233.84
Transportation, freight	718.10
Provisions	13.60
Lights, electric and gas	894.57
Cleaning sinks and cesspools	40.00
Removing garbage	137.00
Custom duties	75.30
Subsistence	1,435.14
Water tank	115.00
Gas engine	325.00
Bath house	225.00
Carts	161.94
Water	100.00
Fuel	62.30
United States Army for the island of Cuba	40,318.51
Damage to land	3,893.57
Property destroyed by United States Army	45.00
Rent	26.05
Rent of scow	27.30
Electric-light plant	1,675.00
Total	617,755.84

Statement of expenditures under the heading "Quarantine" for the period from July 1 to December 31, 1899, as audited and reported by the auditor of Cuba.

Salaries	$229.50
Pay roll, labor	567.23
Material	190.06
Rents, miscellaneous	208.00
Miscellaneous	25.00
Property	28.00
Transportation, travel	50.00
Provisions	523.72
Cablegrams	.98
Office expense	2.00
Detention fund	1,550.00
Telegrams and telephone	71.09
Property destroyed by United States Army	130.00
Total	3,575.58

Statement of expenditures under the heading "Municipalities" for the period from July 1 to December 31, 1899, as audited and reported by the auditor of Cuba.

Salaries	$67,294.46
Pay rolls, labor	21,299.83
Repairs	8,875.41
Material	7,080.63
Rents, miscellaneous	440.12
Miscellaneous	97.23
Property	9,086.59
Stationery and printing	842.59
Transportation, travel	188.99
Disinfectants	$11.53
Forage	12.73
Transportation, freight	69.40
Provisions	146.85
Allotment	1,645.02
Lights, electric and gas	3,586.33
Storage	59.55
Refunds	1.40
Improvements	1,500.00
Jail expense	266.60
Provisions for jails	355.45
Translating	253.00
Total	123,113.26

Statement of expenditures under the heading "Civil government" for the period from July 1 to December 31, 1899, as audited and reported by the auditor of Cuba.

Salaries	$79,766.48
Pay roll, labor	613.87
Repairs	817.65
Material	3,457.21
Rents, miscellaneous	1,142.60
Miscellaneous	702.78
Property	23,224.88
Stationery and printing	4,755.17
Transportation, travel	12,708.93
Disinfectants	22.77
Forage	401.09
Transportation, freight	6,917.98
Provisions	20,108.43
Clothing	710.35
Lights, electric and gas	273.36
Storage	66.90
Medicines	646.29
Medical and surgical supplies	81.92
Office supplies	938.64
Advertising	5,362.96
Fuel	89.60
Trade journals	45.52
Exchange	101.74
Post-office stamps	24.83
Revision, civil code	600.00
Preliminary work, "census"	700.00
Total	164,281.75

Statement of expenditures under the heading "Aid to destitute" for the period from July 1 to December 31, 1899, as audited and reported by the auditor for Cuba.

Salaries	$6,565.84
Pay roll, labor	5,521.55
Repairs	4.55
Material	136.36
Rents, miscellaneous	774.00
Miscellaneous	217.45
Property	481.50
Stationery and printing	150.10
Transportation, travel	499.26
Forage	12.73
Transportation, freight	233.64
Provisions	30,373.69
Lights, electric and gas	6.19
Medicines	4,004.03
Carts	264.50
Medical and surgical supplies	773.73
Office supplies	15.64
Cuban rations	28,140.42
Wharfage	10.23
Advertising	30.63
Hire of land	75.00
Interment of remains	138.00
Burial expenses	119.60
Total	78,539.63

Statement of expenditures under the heading "Customs service" for the period from July 1 to December 31, 1899, as audited and reported by the auditor of Cuba.

Salaries	$258,555.80
Pay roll, labor	4,407.67
Repairs	20,194.88
Material	4,767.03
Rents, miscellaneous	2,450.22
Officers' quarters	70.00
Miscellaneous	2,506.69
Property	8,874.17
Stationery and printing	6,496.02
Transportation, travel	1,380.26
Transportation, freight	285.30
Provisions	68.15
Lights, electric and gas	151.90
Refunds	28,090.84
Cablegrams	16.06
Office supplies	1,478.25
Insurance on freight	162.28
Veterinary inspector	11.28
Uniforms	27.05
Fuel	181.50
Telegrams and telephone	114.28
Rent of scows and tugs	100.00
Trade journals	166.56
Supplies for launch	183.73
Rent of launch	755.00
Rent of launches and tugs	280.00
Exchange	23.70
Repairs, launch	124.55
Money-order fees	3.60
Auctioneer's fees	120.65
Supplies to cutter and launch	384.62
Capturing British schooner	33.00
Legal services	1,218.51
Telegrams and cables	39.84
Telegrams	263.15
Total	345,985.99

Statement of expenditures under the heading "Cuban census" for the period from July 1 to December 31, 1899, as audited and reported by the auditor of Cuba.

Salaries	$179,231.45
Pay roll, labor	21,260.03
Material	19.58
Rents, miscellaneous	925.12
Miscellaneous	402.25
Property	2,584.24
Stationery and printing	1,663.59
Transportation, travel	3,004.98
Forage	5.60
Transportation, freight	103.23
Provisions	468.77
Lights, electric and gas	27.76
Advertising	174.00
Trade journals	26.81
Telegrams and cables	76.71
Supervisor	1,200.00
Telegrams	228.28
Total	211,401.80

The above statement does not seem to include the following items:

A payment to the Cuban census supervisor under the heading of "Miscellaneous," amounting to	$980.00
A payment for salaries, census supervisors, under the heading of "Miscellaneous," amounting to	872.51
A payment for preliminary work, "census," paid under the heading "Civil government," amounting to	700.00
And a payment for transportation and subsistence, "census supervisors," under the heading of "Miscellaneous," amounting to	1,944.37
Total	4,496.88

Statement of expenditures under the heading "Miscellaneous" for the period from July 1 to December 31, 1899, as audited and reported by the auditor of Cuba.

Salaries	$27,204.67
Pay roll, labor	2,580.89
Repairs	6,027.04
Material	491.77
Rents, miscellaneous	14,477.44
Miscellaneous	572.68
Property	9,527.75
Stationery and printing	8,088.69
Transportation, travel	1,164.30
Provisions	41.49
Disinfectants	6.40
Forage	138.90
Transportation, freight	7,254.08
Clothing	25.55
Lights, electric and gas	62.00
Medicines	18.85
Medical and surgical supplies	472.69
Cuban census supervisor	980.00
Office supplies	614.08
Aid to charitable institutions	90.65
Cuban rations	7,000.00
Making Cuban pay rolls	1,212.00
Attorney's fees, quartermaster's department	100.00
Incidentals	42.81
Transportation to funds	137.50
Architects and engineers	250.00
Rural guard	28.00
Secret service	1,446.89
Advertising	3,836.29
Telegrams and telephones	28.68
Trade journals	83.25
Laundry	.90
Repairs to quarters, "Captain of the port"	11,775.00
Destruction of crops and wharves by United States Army	1,000.26
Salaries, "Census supervisors"	872.51
Transportation and subsistence, "Census supervisors"	1,944.37
Lawyers' fees	100.00
Total	109,642.38

Statement of expenditures under the heading "Sanitation" for the period from July 1 to December 31, 1899, as audited and reported by the auditor of Cuba.

Salaries	$109,539.14
Pay rolls, labor	880,799.79
Repairs	53,730.16
Material	339,685.10
Rents, miscellaneous	2,419.79
Miscellaneous	1,154.16
Property	126,087.91
Real estate	38,510.00
Stationery and printing	3,250.89
Transportation, travel	1,694.22
Disinfectants	12,891.95
Forage	42,156.83
Transportation, freight	27,468.87
Provisions	415.60
Clothing	32.05
Lights, electrical and gas	336.15
Medicines	350.63
Cleaning sinks and cesspools	1,998.47
Removing garbage	50.00
Customs duties	484.53
Carts	11,465.74
Water	100.00
Mattresses for hospital	360.00
Band stand	50.00
Improvements	750.00
Electrical work	1,098.00
Property destroyed by United States Army	39.00
Rent for tug and lighter	2,994.40
Vaccinating	2,273.90
Cablegrams	7.50
Tanks, culverts, and bridges	362.66
Health inspector	73.00
Dredging	986.00
Repairs to tug	$1,376.20
Uniforms	720.52
Fuel	417.04
Miscellaneous supplies	502.33
Hospital supplies	330.00
Inspection	1,209.98
Telegrams and telephones	11.97
Vaccination expenses	2,956.88
Rent of scows and tugs	3,712.07
Rent of tugs and launches	2,480.00
Building sea wall	1,044.58
Huts for reconcentrados	1,702.00
Royalty on electrozone	724.82
School supplies	23.45
Rent of lighters and scows	7,038.69
Veterinary supplies	555.87
Total	1,688,422.84

Statement of expenditures under the heading "Rural guard and administration" for the period from July 1 to December 31, 1899, as audited and reported by the auditor of Cuba.

Salaries	$417,813.78
Pay roll, labor	27,570.34
Repairs	2,055.63
Material	7,775.75
Rents, miscellaneous	3,576.47
Miscellaneous	1,725.84
Property	11,224.48
Damage to property by United States Army	28.00
Stationery and printing	19,805.95
Transportation, travel	4,107.59
Forage	1,749.70
Transportation, freight	857.96
Provisions	1,935.28
Clothing	75.00
Lights, electric and gas	564.01
Medicines	5.00
Subsistence	174.80
Water	24.00
Cablegrams	118.70
Office expenses	203.79
Supplies for steamer	76.45
Ice	74.31
Newspapers	24.34
Photographic views	31.50
Secret service	390.00
Uniforms	3,149.95
Telegrams and telephones	561.00
Trade journals	70.90
Ammunition	19.00
Exchange	113.09
Attorneys' fees	100.00
Telegrams and cables	172.89
Total	506,152.50

Statement of payments made under the heading "Department of finance" during the period from January 1 to December 31, 1899, as audited and reported by the auditor of the island of Cuba.

Secretary and assistant's office:	
Salaries	$96,349.11
Material	6,305.82
Transfer of money	468.00
Inspection and commissions	2,415.40
Eventual expenses	1,545.00
Printing matters	379.44
Material	1,285.75
Assessments office, salaries	1,934.91
Provincial branch office:	
Salaries	89,288.52
Material	3,892.09
Rent	3,836.42
Management	445.68
Devolution of receipts	426.73
Installation expenses	379.40
Repair and renewal archives	2,500.00
Total	211,202.27

Statement of payments made under the heading "Department of justice and public instruction" during the calendar year 1899, as audited and reported by the auditor of the island of Cuba.

Secretary and assistant's office:	
Salaries	$38,054.11
Material	1,221.99
Supreme court:	
Salaries	13,028.55
Material	676.26
Rent	125.00
Management	1,000.00
Furniture	500.00
Audiencia:	
Salaries	219,995.64
Material	7,222.81
Rent	3,542.40
Furniture	500.00
Judges, first instance:	
Salaries	93,755.21
Material	5,651.47
Rent	7,400.72
Interpreters	1,720.00
Courts, expenses for witnesses	7,039.03
Justice expenses, material	65.75
Office rents	122.40
Executioners	180.00
Executioners, assistance	90.00
Inspection expenses, material	188.53
Superior instruction institute:	
Salaries	42,664.18
Material	4,590.50
Rent	30.90
Public instruction board	1,168.91

Public instruction, schools:	
Salaries	$163,195.98
Material	29,314.36
Rent	40,726.47
Furniture	4,555.50
University:	
Salaries	89,781.62
Material	3,919.33
Clinical room	225.00
Eventual expenses	630.00
Professional schools:	
Salaries	14,704.33
Materials	826.05
Painting and sculptural school:	
Salaries	7,024.97
Material	413.22
Eventual expenses	311.00
Normal school:	
Salaries	779.73
Material	1,439.24
Arts and trades school:	
Salaries	16,872.29
Material	2,158.64
Rent	667.62
Assistance	750.00
Printers' academy:	
Assistance	1,080.00
Bacteriological laboratory:	
Assistance	4,510.79
Sciences Academy:	
Assistance	962.15
Anatomical dissecting room:	
Rent	932.59
Repair of institute buildings	2,000.00
Register's office:	
Salaries	1,218.54
Material	228.24
Public library:	
Material	150.00
Mercedes Hospital:	
Assistance	2,058.74
Clinical room	1,500.40
Municipalities:	
Register books, materials	171.40
Total	876,640.16

Statement of the payments made under the heading "Department of agriculture and public works," etc., during the calendar year of 1899, as audited and reported by the auditor of the island of Cuba.

Secretary and assistant's office:	
Salaries	$21,208.08
Material	983.64
Board of agriculture, industry, and commerce:	
Salaries	16,326.85
Material	528.89
Public works inspection:	
Salaries	6,910.21
Material	165.00
Civil construction office:	
Salaries	4,064.59
Material	120.00
Weights and measures office:	
Material	416.60
Forests and miners inspection:	
Salaries	12,822.52
Material	430.45
Assistance	184.53
Railroads inspection:	
Salaries	4,530.62
Material	135.00
Eventual expenses	730.00
Assistance	42.30
Eventual expenses	333.59
Provincial branch office:	
Salaries	26,891.35
Material	309.29
Provisional board of agriculture, industry, and commerce:	
Salaries	$5,478.68
Material	333.19
Eventual expenses	169.00
Provisional board forest inspection:	
Material	10.00
Office rents	20.83
Light-houses:	
Salaries	17,001.64
Material	15,486.95
Repairs of building	1,213.28
Buoys	5,965.53
Repairing of highways	104,283.03
Repairing of State buildings	6,221.84
Allowance to the technical personnel	1,993.76
Total	255,421.23

Statement of payments made under the heading "Department of state and government," during the calendar year 1899, as audited and reported by the auditor of the island of Cuba.

Secretary and assistant's office:	
Salaries	$44,849.29
Material	2,596.48
Board of health:	
Salaries	123.87
Material	225.00
Insane hospital:	
Salaries	12,506.80
Material	25,697.74
Assistance	14,165.67
Eventual expenses	2,266.00
Repair of building	2,102.06
Santa Susana Hospital:	
Assistance	2,100.00
Deficit	2,495.14
Lee Orphan Asylum:	
Assistance	$2,472.84
Charities:	
Assistance	49,710.65
Office rents	2,574.31
Extraordinary expenses:	
Material	300.00
Civil government:	
Salaries	69,295.84
Material	3,322.89
Office rent	774.28
Inspection expenses	187.92
Material	2,841.85
Management expenses	202.29
Allowance for extraordinary commissions	1,086.15
Police:	
Salaries	341,712.44
Material	1,137.80
Transfer of prisoners	1,100.81
Prisons:	
Salaries	3,040.80
Material	83.20
Vaccination board:	
Salaries	3,070.64
Material	1,052.37
San Lazaro Hospital loan	12,000.00
Municipalities:	
Deficits	35,175.47
Civil register books	11.00
Confidential funds	319.17
Sanitary services:	
Salaries	283.16
Material	30.16
Total	640,975.09

Statement of payments made under the heading "Extraordinary expenses ordered by the military governor" during the calendar year 1899, as audited and reported by the auditor of the island of Cuba.

Provincial deputation	$23,053.78
Eventual expenses	31,234.25
Municipalities	8,255.33
Municipalities deficit	289,673.08
Salaries	8,345.56
Material	514.40
Headquarters	5,679.80
Charities	926.59
Administration expenses	982.81
Civil government	276.00
Audiencia	3,228.65
Public works	2,873.17
Secretary and government office	5,127.59
Public instruction	416.75
Light-houses, old government	1,815.84
President of secretary's consejl:	
Salaries	493.92
Justice office	752.30
Government office	2,313.81
Public works office	1,261.50
Lottery section office	307.81
Provisional board of charity	1,234.95
Vaccination board	585.38
Mortmain section office	55.55
Purchase of house No. 40 Cuba street, for supreme court	46,720.14
Provincial board of agriculture, industry, and commerce, Matanzas:	
Salaries	124.99
Provincial board of agriculture, industry, and commerce, Pinar del Rio:	
Salaries	99.99
General archives:	
Management expenses	170.00
Eventual expenses	68.40
Transfer and repairing	148.00
"Mercedes" Hospital:	
Assistance	3,410.23
Prov. diputation:	
Material	29.78
Prison	871.72
Police:	
Salaries	6,358.20
Material	35.65
Rent	170.00
Schools:	
Assistance	60.00
Prisons:	
Assistance	237.00
Hospitals:	
Assistance	55.00
Total	448,079.92

Summary, by departments, of expenditures under the headings of State and government, Justice and public instruction, Finance, Agricultural public works, etc., and extraordinary expenses ordered by the military governor during the calendar year 1899, as audited and reported by the auditor of Cuba.

Habana	$1,479,645.57
Pinar del Rio	165,927.29
Matanzas	230,607.48
Santa Clara	236,518.34
Puerto Principe	179,834.12
Santiago de Cuba	139,875.87
Total	2,432,408.67

Statement of salaries (not including pay roll, labor) paid under the headings as shown during the period from July 1 to December 31, 1899, as audited and reported by the auditor of Cuba.

Barracks and quarters	$8,325.11
Sanitation	109,530.14
Rural guard and administration	417,813.78
Public works, ports, and harbors	36,155.35

Charities and hospitals	$17,854.06
Miscellaneous	27,204.67
Civil government	79,766.48
Municipalities	67,294.46
Quarantine	229.50
Aid to destitute	6,565.84
Customs service	258,555.80
Cuban census	179,231.45
Total	[1] 1,208,535.64

[1] This amount does not seem to include the sum of $980 paid to "Cuban census supervisor," under the heading "Miscellaneous;" nor the sum of $872.51, salaries "Census supervisors," paid under the heading "Miscellaneous," nor the sum of $700, preliminary work census, paid under the heading "Civil government."

Complete statement of all salaries paid during the periods shown, as audited and reported by the auditor of Cuba.

	Jan. to June 30.	July to Dec. 31.	Total.
State and government:			
Office of secretary and assistant	$17,988.70	$25,860.59	$44,849.29
Police	23,674.75	318,037.69	341,712.44
Board of health	123.87		123.87
Insane asylum	1,901.75	10,605.05	12,506.80
Sanitary services	283.16		283.16
Vaccination board	767.66	2,302.98	3,070.64
Civil government	19,984.11	49,311.73	69,295.84
Prison		3,040.80	3,040.80
Total			474,882.84
Department of justice and public instruction:			
Office of secretary and assistant	16,491.44	21,562.67	38,054.11
Supreme court	5,890.86	37,135.69	43,026.55
Audiencia	85,319.94	134,675.70	219,995.64
Judges, first instance	40,182.03	56,573.18	96,755.21
Superior instruction	23,442.32	19,221.86	42,664.18
Public instruction schools	291.66	162,904.32	163,195.98
University	45,009.55	44,772.07	89,781.62
Professional school	7,394.49	7,309.84	14,704.33
Painting and sculptural school	3,360.11	3,664.86	7,024.97
Normal school	779.73		779.73
Arts and trades school	4,127.43	12,744.86	16,872.29
Register's office	1,218.54		1,218.54
Total			734,073.15
Department of finance:			
Office of secretary and assistant	46,416.76	49,932.35	96,349.11
Provincial branch office	42,329.45	46,959.07	89,288.52
Assessment office	1,134.93	799.98	1,934.91
Total			187,572.54
Department of agriculture, public works, etc.:			
Office of secretary and assistant	9,265.72	11,942.36	21,208.08
Board of agriculture, industry, and commerce	8,186.74	8,140.11	16,326.85
Public works, inspection	2,549.36	4,360.85	6,910.21
Civil construction office	1,828.26	2,236.33	4,064.59
Forests and mines, inspection	4,396.74	8,425.78	12,822.52
Railroads, inspection	1,895.41	2,635.21	4,530.62
Provincial branch office	12,067.96	14,823.39	26,891.35
Provincial board of agriculture, industry, and commerce	2,396.21	3,082.47	5,478.68
Light houses	6,742.63	10,259.01	17,001.64
Allowances to the technical personnel	469.46	1,524.30	1,993.76
Total			117,228.30
Extraordinary expenses ordered by the military governor:			
President of secretary's conseil	498.92		498.92
Provincial board of agriculture, industry, and commerce—			
Matanzas		$124.99	124.99
Pinar del Rio		99.99	99.99
Municipalities, deficit		8,345.56	8,345.56
Police		6,358.20	6,358.20
Department of posts	96,334.22	122,753.69	219,087.91
Clerks in post-office	23,015.58	12,657.32	35,672.90
Postmasters	42,078.12	45,286.27	87,364.39
Railway postal clerks	12,893.78	11,385.71	24,279.49
Letter carriers	7,690.02	10,236.22	17,927.24
Total			384,331.93
Barracks and quarters		8,325.11	8,325.11
Sanitation		109,539.14	109,539.14
Rural guard and administration		417,813.78	417,813.78
Public works, ports, and harbors		36,155.35	36,155.35
Charities and hospitals		17,854.06	17,854.06
Miscellaneous		27,204.67	27,204.67
Civil government		79,766.48	79,766.48
Municipalities		67,294.46	67,294.46
Quarantine		229.50	229.50
Aid to destitute		6,565.84	6,565.84
Customs service		258,555.80	258,555.80
Cuban census		179,231.45	179,231.45
Total			1,208,535.64
Grand total, salaries			3,122,052.06

Mr. PLATT of Connecticut. Would it be agreeable to the Senator from Georgia to have the amendment which I proposed to the resolution adopted at this time?

Mr. BACON. It will.

Mr. PLATT of Connecticut. Then the resolution can go to the Committee on Contingent Expenses.

Mr. BACON. It will be entirely so. The amendment offered by the Senator from Connecticut is substantially the same as the one which I had previously offered, except that I find in it a provision for expert accounting.

Mr. PLATT of Connecticut. The Senator is satisfied with the amendment I have proposed?

Mr. BACON. I am satisfied with the amendment presented by the Senator from Connecticut.

Mr. PLATT of Connecticut. Then I ask that it be adopted.

The PRESIDENT pro tempore. The Senator from Connecticut asks for the adoption of the amendment proposed by him to the resolution submitted by the Senator from Georgia. The amendment will be read.

The SECRETARY. It is proposed to add to the resolution the following:

Said committee is authorized to conduct said investigation, and make such report by subcommittee or committees appointed by the chairman; and the committee, or any subcommittee thereof, is authorized to sit during the recess of Congress at such place or places in the United States or Cuba as may be necessary; and is empowered to send for persons and papers, issue subpœnas, administer oaths, examine witnesses, employ stenographers, expert accountants, and other necessary assistance, and the expenses of said investigation shall be paid out of the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PLATT of Connecticut. The amendment having been agreed to——

Mr. COCKRELL. Let it be printed as amended.

Mr. PLATT of Connecticut. I suppose the law requires that the resolution shall go to the Committee on Contingent Expenses.

Mr. COCKRELL. But let it be printed as amended and then referred to the Committee on Contingent Expenses.

Mr. GALLINGER. That is right.

Mr. PLATT of Connecticut. All right.

The PRESIDENT pro tempore. The resolution will be printed as amended, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

ANDREW F. DINSMORE.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read:

To the Senate of the United States:

In compliance with a resolution of the Senate of the 22d instant (the House of Representatives concurring), I return herewith the bill of the Senate No. 3215, entitled "An act granting an increase of pension to Andrew F. Dinsmore."

WILLIAM MCKINLEY.

EXECUTIVE MANSION, *May 24, 1900.*

Mr. GALLINGER. I ask that the bill and message may lie on the table for the present.

The PRESIDENT pro tempore. It will be so ordered, without objection.

HOUR OF MEETING.

Mr. ALLISON. I ask unanimous consent that on to-morrow and Saturday the Senate shall meet at 11 o'clock.

The PRESIDENT pro tempore. The Senator from Iowa asks unanimous consent that on Friday and Saturday next the Senate shall meet at 11 o'clock. Is there objection? The Chair hears none, and it is so ordered.

SENATOR FROM MONTANA.

Mr. CHANDLER. I move that the Montana resolution be postponed until Wednesday of next week at 1 o'clock.

The PRESIDENT pro tempore. The Senator from New Hampshire moves that the resolution respecting the election in Montana be postponed until 1 o'clock on Wednesday next. The question is on agreeing to the motion.

The motion was agreed to.

GOVERNMENT OF THE PHILIPPINE ISLANDS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2355) in relation to the suppression of insurrection in, and to the government of, the Philippine Islands, ceded by Spain to the United States by the treaty concluded at Paris on the 10th day of December, 1898.

Mr. SPOONER. Yesterday, Mr. President, before I yielded the floor I had called the attention of the Senate to a letter written by Aguinaldo to the Spanish general, Rios, in command of Iloilo, October 25, before the commissioners at Paris had demanded a cession of the Philippine Archipelago, and of course before it had

been ceded, in which he besought the Spanish general to surrender to him and not to the Americans and to join him with his troops and the 9,000 prisoners held by Aguinaldo in fighting the Americans. I called attention to it because it is irrefutable evidence and meets many charges found in the extended propaganda which for months has been flooding this country against the honor of the United States as represented by the Administration in their treatment of Aguinaldo and his forces.

In this book of Aguinaldo's (and I do not read it for the purpose of denouncing him as a man not only of bad faith, but of want of veracity) appears a statement which I shall read. This is addressed to the nations of the world, attempting to set forth the breach of promise made by consuls and by Admiral Dewey, stating his victories and the extent of his control, and appealing for recognition. He says:

I, Emilio Aguinaldo, though the humble servant of all, am, as president of the Philippine republic, charged with the safeguarding of the rights and independence of the people who appointed me to such an exalted position of trust and responsibility—

It is true the people did not appoint him; he appointed himself—

mistrusted for the first time the honor of the Americans, perceiving of course that this proclamation of General Otis completely exceeded the limits of prudence, and that therefore no other course was open to me but to repel with arms such unjust and unexpected procedure on the part of the commander of friendly forces.

This was several months after Aguinaldo had written to the Spanish general asking him to surrender Iloilo to him and to join with his forces in fighting the Americans, the hated Spanish flag and the beloved Philippine republic flag to float side by side, and yet he says that he mistrusted our honor for the first time when General Otis issued his proclamation January 4, 1899.

Much has been made of the statement that we recognized Aguinaldo by turning over our sick to him. It was made in the Senate Chamber the other day. If there is any foundation for it in the papers accessible I have not been able to find it. It undoubtedly arises out of a request made by our officers of Aguinaldo. They treated him with the utmost courtesy. Our commanding officer made request to be permitted to establish a hospital on some high ground in the suburbs within his lines—a simple request in the interest of human life that any friendly commander would immediately grant. He refused it, and the General in reply stated that he had upon investigation come to the conclusion that the establishment of such a hospital was not necessary.

It is said we recognized him by turning over our prisoners to him. This refers—and I will spend but a moment upon it—to the troops captured by our naval forces at Subig Bay without any cooperation or assistance from Aguinaldo, although at that time he professed to be friendly, and our people were treating him as friendly. As the Spanish soldiers would not accept parole, and as there was not room for them upon the war ships, and as we had no soldiers there, the Admiral states that he left them in charge of Aguinaldo, first exacting the pledge that they should be decently treated as prisoners of war. They were *our* prisoners of war. That is all there is of that.

It has been said that the outbreak of hostilities was brought about by us. On the papers I denounce that as without the slightest foundation. On the contrary, I assert here, and it is susceptible of proof, not only that the attack upon our troops was made by the troops of Aguinaldo, but that it was long premeditated. Why do I say that? I say it, Mr. President, among other things, for this reason: I hold in my hand a cable dated Manila, May 7, 1900, from General MacArthur, as gallant and chivalrous a soldier as ever served in any army. It refers to a paper captured the other day from Aguinaldo's troops in the mountains by General Funston. It throws a great light upon the fact which has been in contention:

MANILA, *May 7, 1900.*

ADJUTANT-GENERAL, *Washington*:

Referring to cable 5th instant re Aguinaldo's orders for uprising Manila. Order contains over thousand words, mostly detailed instructions street fighting; involves certain acts treachery—use boiling liquids from upper widows by women and children. Assassination American officers implied, not positively ordered. Paper principally valuable account date, *January 9, 1899*, evidencing well developed plans of offensive insurgents before outbreak. Importance full text insufficient justify expense cabling. Unless absolutely required will not cable. Otis took original.

MACARTHUR.

It would have cost $2,000 to cable it. There are a thousand words in the order, written in the Tagalos language, with Aguinaldo's own signature to it, dated January 7, many, many days before the outbreak of hostilities, which occurred on February 4.

Ally! A man brutally attacked, the friend of liberty and our coadjutor, by American troops!

That is not all, Mr. President. Without limit, evidences which can not be disputed are susceptible of accumulation.

[Presidency. Personal.]

REVOLUTIONARY GOVERNMENT OF THE PHILIPPINES,

Two days before the date of this order——

Malolos, January 7, 1899.

MY DEAR DON BENITO: I write this to ask you to send to this our Government the photograph you have in your house, and I will pay you for whatever price you may ask. Also please buy me everything which may be necessary to provide the said photograph.

I beg you to leave Manila with your family and to come here to Malolos, but not because I wish to frighten you—I merely wish to warn you for your satisfaction, although it is not yet the day or the week.

Your affectionate friend, who kisses your hands.

EMILIO AGUINALDO.

Sr. D. BENITO LEGARDA.

The week fixed was the first week in February, the day fixed was the 5th day of February, and the outbreak came one day before it was intended.

Gen. Charles King, a gallant and noble soldier of the Regular Army, years ago wounded in the Indian wars, and retired, but unwilling to remain inactive during the Spanish-American war, in which he was a general officer, has written to me the following letter:

MILWAUKEE, WIS., *May 5, 1900,*

DEAR SIR: The conditions in front of my brigade preceding the outbreak of February 4, 1899, were as follows:

The line of delimitation extended along the estuaries from Pandacan Point on my extreme left to blockhouse 12 on my extreme right. Only one bridge crossed the estuary. It was directly in front of my center at blockhouse 11.

It was distinctly prescribed that, under arms, neither Americans nor insurgents should cross that line.

On December 21, insurgent guards, under arms, crossed to our side, and a clash with our sentries was narrowly averted. General Ricarti promised that it should not occur again, but on December 29, and once before, the same thing happened. After January 1, 1899, although the insurgents were allowed, unarmed, to wander at will within our lines, they ordered our officers back. By January 3 there were significant demonstrations. Earthworks and redoubts grew with every night, and up to January 8 Filipino families in great numbers passed out of town to the country, carrying their goods with them. The insurgents increased the guard at the bridge opposite my center. From this time I could see their working parties flitting about the opposite fields all night long; reported the intrenchments rapidly growing, but we were forbidden to make counter demonstration.

After January 15 insurgent officers and men repeatedly threatened and insulted my sentries, daring them to fight, calling them cowards, flashing their swords in their faces. In order to do this they *had* to come across the bridge. We were ordered to pay no attention to threats or abuse, and the situation grew constantly more strained until the general attack made by the insurgents the night of Saturday, February 4, and morning of Sunday, February 5.

General McArthur's report, herewith, tells of the attack north of the Pasig River. It was there the battle began. At 2.40 Sunday morning the insurgents made a deliberate attack in force on my line south of the Pasig. It was provoked by no shot or demonstration on our part. Every forbearance was shown.

Very respectfully,

CHARLES KING,
Late Brigadier-General, U. S. V.

Hon. JOHN C. SPOONER,
United States Senate, Washington, D. C.

Thus it appears that during those weeks, Mr. President, every night, the time was spent by Aguinaldo's forces in making earthworks and redoubts around Manila. Why were they doing this around Manila? Why were they adding to their fortifications? Were they anticipating an attack from the Spanish troops? The Spanish troops had surrendered months before and had been transported back to Spain. They were getting ready for a fight with the soldiers of the United States. They had no reason to anticipate an attack from us. The President, as the cablegrams show, over and over again, all the time, whenever word came from Manila from our officers of bad blood between the two armies or of insult to our men, of every conceivable taunt and attempt to provoke a resort to violence upon our part, never failed to cable there, not to resort to force; not to break the peace; and General Otis, only a few days before the outbreak, wrote the following letter to Aguinaldo:

Permit me now briefly, General, to speak of the serious misunderstanding which exists between the Philippine people and the representatives of the United States Government, and which I hope that our commissioners, by thorough discussion, may be able to dispel. I sincerely believe that all desire peace and harmony, and yet by the machinations of evil-disposed persons we have been influenced to think that we occupy the position of adversaries. *The Filipinos appear to think that we meditate an attack, while I am under the strictest orders of the President of the United States to avoid a conflict in every way possible.*

The President did his duty in the interest of peace. General Otis did his duty in the interest of peace in notifying Aguinaldo directly that he was under the strictest orders to avoid a conflict.

My troops, witnessing the earnestness and the comparatively disturbed and unfriendly attitude of the revolutionary troops, and many of the citizens of Manila, conclude that active hostilities have been determined upon, although it must be clearly within the comprehension of unprejudiced and reflecting minds that the welfare and happiness of the Philippine people depend upon the friendly protection of the United States. The hand of Spain was forced, and she has acknowledged before the world that all her claimed rights in this country have departed by due process of law.

This treaty acknowledgment, with the conditions which accompany it, awaits ratification by the Senate of the United States, and the action of its Congress must also be secured before the Executive of that Government can proclaim a definite policy. That policy must conform to the will of the people of the United States, expressed through its Representatives in Congress. For that action the Filipino people should wait, at least, before severing the existing friendly relations. I am governed by a desire to further the interests of the Filipino people, and shall continue to labor with that end in view. *There shall be no conflict of forces if I am able to avoid it, and still I shall endeavor to maintain a position to meet all emergencies.*

What more could be asked by the most critical "anti-imperialist," as some of these gentlemen call themselves? What more toward the preservation of peace could the President have done or could our generals have done? Nothing more. It was the farthest from our thought, the farthest from our wish, to have

trouble there. Our forces had not gone there for trouble with the Filipinos.

Mr. President, it has been thought and stated many times, and it will be stated again, that if the Senate had passed the Bacon resolution after the ratification of the treaty there would have been no war. The Bacon resolution was pending; a Filipino commission headed by Agoncillo was here in the city; that resolution had not been acted upon; even the treaty had not been acted upon. They knew in the Philippines of the pendency of the treaty; they knew in the Philippines of the pendency of the Bacon resolution, and when it came before the Senate and was voted upon, I believe it was only lost by the casting vote of the Vice-President.

But they would not wait. This second George Washington; this man who wanted only liberty and independence, although he had been trading with the Spaniards from June 9 to fight us; this man surrounded by international lawyers; this man and his people, capable of independent government, could not wait. Why not? Puffed with the pride and the vanity of the Oriental that so disgusted Admiral Dewey with him, within thirty days after he arrived at Manila, thinking he could drive us out of the Philippines, he was not willing to wait.

It has been said that we fired the "first shot." In one sense, that is true. I will not read the statement from the report of the commission as to the details of the situation out of which came hostilities. It is known of all men, it is not open to dispute, that on that night of February 4 a lieutenant, and, I think, four private soldiers, and possibly one noncommissioned officer, came three times within our lines, where they had no right to be, and attempted to force the guard. Three times that sentry halted them, and on the third time on their approach he fired. He was not obliged to halt them more than once, but the third time he fired, I think it is stated, killing the lieutenant. Thereupon, simultaneously and almost immediately, there was a general attack from the Filipino lines upon our lines.

It was stated here the other day that our sentry was where he had no right to be. Is that true? The Senator from South Dakota [Mr. PETTIGREW] said he could prove it. When before did the mere shot of a sentry or a guard precipitate a general firing along the whole line? Never, unless it was a prearranged signal. Such a thing never was known, I believe, in the history of war. Philippine soldiers had been shot before by American sentinels, I think once at least; but evidently by arrangement there was a general firing upon our troops along the entire line.

From the report of General MacArthur this appears:

The pertinacity of the insurgents in passing armed parties over the line of delimitation into American territory, at a point nearly opposite the pipe-line outposts of the Nebraska regiment, induced a correspondence which, in the light of subsequent events, is interesting, as indicating with considerable precision a premeditated purpose on the part of somebody in the insurgent army to force a collision at that point. The original note from these headquarters, which was prepared after conference with the department commander, was carried by Major Strong, who entered the insurgent lines and placed the paper in the hands of Colonel San Miguel. The answer of Colonel San Miguel was communicated in an autograph note, which was written in the presence of Major Strong, who also saw Colonel San Miguel write an order to his officer at the outpost in question, directing him to withdraw from the American side of the line. This order Major Strong saw delivered to the officer on the outpost. The correspondence referred to is as follows, the original of Colonel San Miguel's note, which was written in the Spanish language, being inclosed herewith:

HEADQUARTERS SECOND DIVISION EIGHTH ARMY CORPS,
Manila, Philippine Islands, February 2, 1899.

Commanding General Philippine Troops in Third Zone:

SIR: The line between your command and my command has long been established, and is well understood by yourself and myself.

It is quite necessary, under present conditions, that this line should not be passed by armed men of either command.

An armed party from your command now occupies the village in front of blockhouse No. 7, at a point considerably more than 100 yards on my side of the line, and is very active in exhibiting hostile intentions. This party must be withdrawn to your side of the line at once.

From this date, if the line is crossed by your men with arms in their hands, they must be regarded as subject to such action as I may deem necessary.

Very respectfully,

ARTHUR MACARTHUR,
Major-General, U. S. V., Commanding.

SAN JUAN DEL MONTE, *February 2, 1899.*

Major-General MACARTHUR.

MY VERY DEAR SIR: In reply to yours dated this day, in which you inform me that my soldiers have been passing the line of demarcation fixed by agreement, I desire to say that this is foreign to my wishes, and I shall give immediate orders in the premises that they retire.

Truly, yours,

L. F. SAN MIGUEL,
Colonel and First Chief.

At about 8.30 p. m., February 4, an insurgent patrol consisting of 4 armed soldiers entered our territory at blockhouse No. 7 and advanced to the little village of Santol, which was occupied from the pipe-line outpost of the Nebraska regiment. (*This, it will be observed, was precisely the point referred to in the correspondence above quoted.*) The American sentinel challenged twice, and then, as the insurgent patrol continued to advance, he fired, whereupon the patrol retired to blockhouse No. 7, from whence fire was immediately opened by the entire insurgent outpost at that point.

Notice that the line of delimitation had been agreed upon; it had been long established; there had been many attempts to force that line, and General MacArthur called the attention of General San Miguel to the fact of an army patrol, in disregard of the line established, coming with hostile intent, apparently, into our lines, and asked him to stop it, giving him fair notice that if repeated it would be treated as an evidence of hostility. The officer replied that he would. On the night of February 4, the night when hostilities broke out, the offense was repeated at that precise spot. Can anyone doubt what that was for? Can any man who is unwilling to see anything in all this business but dishonor and brutality and crime upon the part of an American President and of American generals and American troops doubt that that patrol went there in order to force a hostile shot from the American troops?

But that is not all, Mr. President. I have before me a letter from Manila, written by a man whom I believe to be entirely reliable, the special correspondent of the Outlook. I have read many of his letters. They are frank letters; they have indulged in some criticisms upon us as wanting here and there in the requisite tact, but certainly he seems to be a reliable man, as he certainly is an intelligent one. He says:

I have seen letters sent by Aguidaldo to his chief men in Manila at that time—

Referring to the outbreak—

directing them to arm and instruct the secret regiments that had been raised inside the town.

Shortly before the outbreak.

Finally, about February 1, he notified the officers that they were to rise on the 5th, and that simultaneously he would invade the city. Over 2,000 Spanish soldiers who were then being fed and housed by the Americans had enlisted in these secret regiments.

The man, Teodoro Sandico, who issued the order which was sought to be carried out on the night of the 22d of February (Washington's birthday). for the extermination not only of our forces but of the families of all Europeans, Americans, Spaniards, Hollanders, Frenchmen, and English, men, women, and children, without compassion, as the order reads, had been busy for weeks organizing clubs in Manila, apparently social clubs, but really enlisted troops; and it is a fact which no man can gainsay, and which no man will gainsay, that the night when this outbreak occurred there were 10,000 organized soldiers in Manila to aid the outside troops in capturing the city and destroying the people.

I said they attempted on the night of February 22, after this outbreak, to carry out the order of Sandico. I find among the papers the report of one officer who headed the troops for that purpose, who set fire to some buildings, and who happened to discover when he reached the spot where he was to do more of that work that the Americans had been warned and were ready to receive him; and if it had not been for friendly Filipinos; if it had not been for intercepted correspondence; if it had not been for the care and skill of General Hughes, the provost-marshal, there would have occurred, Mr. President, on that night a massacre so shocking that the world never, never would have forgotten it.

We commenced the war! Why? Because "we fired the first shot." That has been said over and over and over again in this Senate and elsewhere. In very many cases of self-defense the man who is attacked fires the first shot. One might as well say that if a caravan crossing the plains in the olden day, the savages circling, as was their wont around it, drawing nearer and nearer, in war paint, should fire first upon them to drive them away, they began hostilities upon the savages. They would have fired the *first* shot. A man approaching the Senator from Iowa [Mr. ALLISON] at night, with a revolver in his hand, evidently intent upon violence, might, with as much propriety, say, if the Senator shot him, being quick and prompt, and wounded him, "You commenced hostilities; you fired the first shot."

It often happens, it generally happens, that when an advancing force reaches a picket line the first shot is fired by the pickets of the army which they seek to attack. It is the rule. They fire to give warning; they fire to give the alarm, and then there is firing along the whole picket line, from the reserves to the end; and then comes the beating of the long roll; then the forces are aroused, and men are ready in all the regiments or corps or divisions, as the case may be, to meet the attack; but the picket who fired the first shot against the enemy advancing could not be said to have commenced hostilities. It is too absurd to talk about.

That night, Mr. President, Aguinaldo promptly issued his declaration of war. It has been said that the next day—and that has been one of the principal counts in this indictment—General Torres came into our lines under a flag of truce from Aguinaldo, saying that the firing was accidental, that Aguinaldo had not ordered the attack, and asking for an armistice and for an agreement upon a neutral zone in order to prevent further hostilities between the armies, and that General Otis replied: "No; fighting has begun and it must go on to the grim end." I lament the shedding of blood; I hate brutality, and therefore I hate war; but, Mr. President, I stand here to-day to say that had the facts been as charged here General Otis would have done his duty in the environment of that day in refusing an armistice.

Why? Here was our little army of 17,000 men only, 7,000 miles away, occupying the city of Manila, with enemies all around them within the city, and enemies all around them without the city, with information that gave them the right to believe that not only was an attack meditated upon the city, but an atrocity—surrounded by 10,000,000 of possible hostiles, a strange and alien people, a people who had been prejudiced against us, vast numbers of whom had been excited and agitated by the appeals of Aguinaldo, claiming to have then an army of 30,000 men outside of the city, to say nothing of Sandico's clubs of butchers within the city—what would be said of a general holding a city filled with friendly Filipinos, containing the families of foreigners and American officers, who, when an attack had been made upon him, unprovoked and wicked, would have granted an armistice and an opportunity to consolidate forces and to gather in more troops, to set more fires, to mature more plans of assassination?

If an armistice had been granted and that city had later fallen; if our troops there had been overwhelmed; if the families of foreigners had been destroyed, what would have been said of General Otis? Every man in the United States would have called him either an idiot or a coward. There was nothing in the situation to lead a prudent commander, circumstanced as he and our army were circumstanced, a general attack having been made upon us, to do other than to press forward. But it turns out that no such flag of truce was ever brought to General Otis; that no such request for an armistice was made of General Otis.

The Adjutant-General, in order to be able to furnish information sought by a resolution of the Senate, wired General Otis as follows:

[Cablegram.]

ADJUTANT-GENERAL'S OFFICE,
Washington, April 30, 1900.

OTIS, *Manila:*

Cable whether General Torres came to you under flag of truce February 5, 1899, and stated Aguinaldo declared fighting had begun accidentally and not authorized by him; that Aguinaldo wished it stopped, and to end hostilities proposed establishment of neutral zone between the two armies of width agreeable to you, so during peace negotiations there might be no further danger of conflict. Whether you replied fighting having begun must go on to grim end.

CORBIN.

Here is General Otis's reply:

[Cablegram.]

MANILA, *May 1, 1900.*

AGWAR, *Washington:*

Judge Torres, citizen, resident of Manila, who had served as member insurgent commission, reported evening February 5 asking—

It was a purely voluntary thing on his part. He did not claim to come from Aguinaldo. He did not claim to speak for Aguinaldo.

if something could not be done to stop the fighting, as establishment of neutral zone. I replied Aguinaldo had commenced the fighting and must apply for cessation; I had nothing to request from insurgent government.

That was right—

He asked permission to send Colonel Arguellez to Malolos, and Arguellez was passed through lines near Caloocan next morning. He went direct to Malolos, told General Aguinaldo and Mabini that General Otis would permit suspension of hostilities upon their request. They replied declaration of war had been made, a copy of which they furnished him.

That was the answer they gave him. When informed by General Otis that there would be a cessation of hostilities if requested by Aguinaldo, they sent to General Otis *a declaration of war:*

They said they had no objection to suspension of hostilities, but beyond this general remark made no response, but directed him to return with that message. Arguellez reported that he conveyed my statement; that they had commenced the war, and it must go on since they had chosen that course of action, but did not attempt to induce them to make any proposition, as he feared accusation of cowardice. *The insurgent chief authorities made no propcsition and did not intend to make any, nor did they attempt to do so until driven out of Malolos. My hasty dispatch of about that date misleading.* * * *

OTIS.

That is what General Otis says, and I received in the mail this noon an insulting letter from a prominent "anti-imperialist" in Boston, whom I do not know, referring to General Otis as untruthful for sending this dispatch.

Mr. ALLEN. Will the Senator permit me to make a statement right there? I will not occupy his time.

Mr. SPOONER. Yes, sir.

Mr. ALLEN. It may be of some interest to the Senator and to the Senate to know that I have been told by an officer, whose name I do not speak, because to do so would imperil his position, that he was present at General Otis's headquarters when General Torres came forward with a flag of truce, as is stated in a document the Senator has read. That officer is yet alive, and he is a gentleman of entire integrity. He is still in the Army, and so I do not think it proper to disclose his name.

Mr. SPOONER. If he charges falsehood upon the commanding general he ought to do it in the open.

Mr. ALLEN. He can not afford to do it.

Mr. SPOONER. Then he ought to shut up.

Mr. ALLEN. No, sir. There is no reason why a man should not tell the truth, though he can not afford to disclose his name.

Mr. SPOONER. He can afford to disclose his name if he tells the truth and charges his commanding officer with telling a lie. A court-martial would take care of his case, and that of the commanding general, too.

Mr. ALLEN. This man would imperil his office by inviting a court-martial to inquire into the facts.

Mr. SPOONER. He would not imperil his office under any decent government in the world, Mr. President, by telling in a respectful way the truth.

Mr. ALLEN. That might be true, Mr. President. But I will not occupy the Senator's time, because I shall on a proper occasion reply to a number of statements he has made, in which I beg to differ with him as to the facts and proofs; but I can not afford to give that officer's name, knowing how the Army of the United States is run. It would imperil him by disclosing the truth, and he would not do so unless it was absolutely necessary to make a disclosure.

Mr. SPOONER. Mr. President, there never was a time when the Army of the United States, illustrious as its history is, was commanded by more honorable men than those who command it to-day, from the Commander in Chief down.

Mr. ALLEN. I have not said anything to the contrary.

Mr. SPOONER. And, Mr. President, I must be pardoned if I pay more regard to this unequivocal statement made by General Otis to the Commander in Chief than I do to the statement of a man made to the Senator from Nebraska for use in the campaign probably——

Mr. ALLEN. No, sir.

Mr. SPOONER. Whose name can not be given to the public. General Otis signed his statement. Mr. President, I have not much respect for a man who goes behind the back of his general to contradict him.

Mr. ALLEN. Will the Senator permit a remark?

Mr. SPOONER. Certainly.

Mr. ALLEN. The circumstances of this matter to which the Senator refers are peculiar.

Mr. SPOONER. There are a great many peculiar circumstances.

Mr. ALLEN. I know there are a great many peculiar things in the world, and we discover them as we go on from day to day.

Mr. SPOONER. And if some can not discover them they make them.

Mr. ALLEN. No, sir. If we do not discover them we miss them, and what we miss probably sometimes is much more valuable than what we come in contact with.

But the fighting began between the Filipinos and a regiment which went from my State—the First Nebraska—and one company of that regiment having gone from the little city in which I live, I think I am in an attitude to know, if men who have always borne a good character for truth and veracity can be believed, that the statement made by General Otis is not true.

Mr. SPOONER. Well, all that brings us to this situation: We have a Senator here who, in the interest of antiimperialism, has placed upon the record the charge that the President did not tell the truth.

Mr. ALLEN. Who did not?

Mr. SPOONER. The President. I do not refer to you.

Mr. ALLEN. Thank you.

Mr. SPOONER. We have also had placed upon the record here the statement that Admiral Dewey has not told the truth.

Mr. ALLEN rose.

Mr. SPOONER. I do not refer to the Senator from Nebraska.

Mr. ALLEN. I thank you again.

Mr. SPOONER. Now we have placed upon the record the statement that General Otis is a prevaricator.

Mr. ALLEN. Not at all, Mr. President. I do not make the charge that General Otis—I will not use the word "lied." The Senator seems to use that word with some degree of freedom. I will not use the word "prevaricator," because that is a milder method of expressing the same thing.

Mr. SPOONER. What word do you use?

Mr. ALLEN. I will simply say that General Otis is mistaken, which is a still softer term.

Mr. SPOONER. He may be mistaken about it, of course; but General Otis would be as likely to know as anybody else.

Mr. ALLEN. A thousand men—1,200 men—standing in line, and other officers and intelligent persons present in hearing distance, can not be ignored in settling a question of fact.

Mr. SPOONER. I suppose there hardly could have been a thousand men present at the conference between this officer, if he came, and General Otis.

Mr. ALLEN. I suppose the old rule holds good yet which prevailed in the days when the Senator and I served in the Army, when a private soldier was supposed to know nothing at all.

Mr. SPOONER. That was true in a good many instances. [Laughter.]

Mr. ALLEN. It was probably true, and I think in some instances it has held true up to this time.

Mr. SPOONER. Yes, probably.

Mr. ALLEN. But I hope the Senator does not propose to adopt that rule. We know that if there is an intelligent man upon the face of the earth it is the average American citizen. A man does not cease to see and to hear and to feel and to reason because he wears the uniform of a private soldier and does not wear the epaulettes of the commissioned officer. These men to whom I refer and of whom I speak can not all be fools and all liars, and the bewhiskered gentleman at the head of the Army at that time know all the truth.

Mr. SPOONER. I should think that General Otis would have known more about what happened in an interview with him than the army would.

Mr. ALLEN. Would the Senator from Wisconsin know more about what happened in an interview between himself and the honorable Senator from Iowa if the Senator from Michigan, who sits by him, was a listener to that conversation?

Mr. SPOONER. No.

Mr. ALLEN. No. Suppose, added to the Senator from Michigan, there were a dozen other men who had an equal opportunity to hear it, would the statement of the honorable Senator from Wisconsin or the honorable Senator from Iowa be taken in preference to the statements of the dozen other gentlemen who had all listened?

Mr. SPOONER. On a matter of this kind, before answering the question I should want to know the politics of the man. [Laughter.] This is a Presidential year.

Mr. ALLEN. I have assumed all the way through that it is possible for a Republican to tell the truth. It may be that I am mistaken. If I am, I apologize to the Senator from Wisconsin.

Mr. SPOONER. The Senator ought to know. He was a Republican long enough. [Laughter.]

Mr. ALLEN. I was a Republican until I discovered that Republicanism meant nothing. I had the manhood to leave that party, thank God. The Senator has not thus far left it.

Mr. SPOONER. The Senator has gotten that in my speech. He became a Populist.

Mr. ALLEN. Yes.

Mr. SPOONER. That is nothing.

Mr. ALLEN. Oh, no. That is, as you view it.

Mr. SPOONER. That is, as I view it.

Mr. ALLEN. In my humble opinion, the Senator from Wisconsin, in all the fullness and plenitude of his knowledge and wisdom, has never read a Populist platform.

Mr. SPOONER. I have.

Mr. ALLEN. You have read more than I thought you had.

Mr. SPOONER. And I can sum it all up in one sentence, almost. They are opposed to everything that is——

Mr. ALLEN. And everything that may be.

Mr. SPOONER. And in favor of everything that is not, that never has been and never ought to be. [Laughter.]

Mr. ALLEN. Will the Senator be kind enough to tell what the Populist party is in favor of?

Mr. SPOONER. No. The Senator proposes to reply to me. He will have time.

Mr. ALLEN. I do propose to reply, and I propose to reply particularly to that facetious part, and that specious part—I will not characterize it in stronger terms—which is calculated to gloss over the monstrosities that are existing in public life to-day and to meet the acclaim and applause of the galleries by light and trivial sayings.

Mr. SPOONER. The Senator can use any language he chooses. He need not modify his language on my account.

Mr. ALLEN. It would be unparliamentary language.

Mr. SPOONER. Now, I come back to the proposition that I think the American people will believe General Otis, at any rate until he is contradicted by somebody whom they know and who comes into the open to dispute his statement.

Mr. TILLMAN. Mr. President——

Mr. SPOONER. But I must finish this afternoon, and I have not said a word about the darkey or South Carolina. [Laughter.] I have not looked at the Senator from South Carolina. I was looking at the Senator from Nebraska.

Mr. TILLMAN. Will not the Senator allow a slight interruption notwithstanding?

Mr. SPOONER. I do not wish to.

Mr. TILLMAN. I will not interrupt the Senator.

Mr. SPOONER. Well, what is it?

Mr. TILLMAN. I will direct the Senator's attention—I know he is fair—to the fact that General Otis has himself been his worst witness as to his own veracity, for the reason that he has so often telegraphed that the rebellion was suppressed, and that there was nothing left of it except a few straggling bands that we have come to believe that the war was over. Nevertheless, our latest news from there, even before he left and since he left, is that it is about as strong opposition as it ever has been.

Mr. SPOONER. Is that all?

Mr. TILLMAN. Well, then, I will give the Senator another little bone——

Mr. SPOONER. No; I beg pardon.

Mr. TILLMAN. In regard to the causes of this battle and how it came about and who provoked it, I read from General Otis's report, in his own words:

> The engagement was one strictly defensive on the part of the insurgents and a vigorous attack by our forces.

Mr. SPOONER. Yes; that is right.

Mr. TILLMAN. Then it could not have been intended by the insurgents and could not have been a premeditated plot. If the insurgents had provoked the assault and had sent their men out to get shot down in order to attack the Americans, they would not have been strictly on the defensive. They would have been ready for a rush.

Mr. SPOONER. The Senator attempts to discredit the word of General Otis because he has reported from time to time that the insurrection, as I call it, was suppressed; but it turned out later that it was not. That was an opinion on the part of General Otis susceptible of easy explanation and in entire harmony with his integrity. I have come to look upon General Otis as a man of great ability, and I have never discovered anything—and I have studied these papers carefully—which would warrant the slightest imputation upon him. I thought at one time that he was not a fit man for the responsible position in which he was placed there.

Mr. ALLEN. Why was he recalled?

Mr. SPOONER. He was recalled at his own request, because he had been there a long time in a climate which breaks men down, carrying upon his shoulders a burden of responsibility, military and civil, and performing an amount of labor, prodigious in its character, which would break any man down. He won, in my opinion, by his conduct in the Philippines, the gratitude, to say nothing of the respect, of the American people. It is true that he thought when he had driven the men out of this village and the other they would stay out, but when the rainy season came, and when our troops had to be withdrawn to Manila, or leave the city subject to loot and destruction, the insurrectionists reoccupied the positions from which they had been driven. That was not the fault of General Otis. That was because we had not afforded him the requisite troops with which to carry on to consummation an Herculean task.

Mr. ALLEN. Will the honorable Senator permit me to suggest that the history of that insurrection, or whatever it may be called, does not furnish an instance where General Otis was on the battlefield during an action.

Mr. SPOONER. It is a matter of no consequence. The books are full of cablegrams, letters, orders, and communications, even as to the detail of movements, which show that General Otis from the beginning to the end kept in touch with every movement, with every troop of men, and gave general directions, as he was obliged to take the general responsibility.

Mr. ALLEN. Conveniently distant from the scene of danger.

Mr. SPOONER. I suppose the Senator means by that observation to charge him with cowardice, does he not?

Mr. ALLEN. I do not mean to charge him with cowardice.

Mr. SPOONER. Then what is the point of the suggestion?

Mr. ALLEN. I mean to say that he has never been upon the field of battle during an action. The Senator from Wisconsin was not there, but it does not follow that he is a coward.

Mr. SPOONER. It was not my business to be there.

Mr. ALLEN. It was the business of the commanding general to be there.

Mr. SPOONER. No; it was not the commanding general's business.

Mr. ALLEN. Did the Senator ever know of a battle being fought before the late war where the general commanding the troops was not somewhere on the scene of action?

Mr. SPOONER. He was not the immediate commander of the troops. He was the commander in chief. He occupied the same relation to the different corps—if there were corps—to the different brigades, and all that in the Philippines that General Grant occupied during the war over all the armies and all the commanders of the United States.

Mr. ALLEN. There can not be found an instance in the history of over two hundred battles fought during the civil war in which the commander of the army was not upon the scene of battle—not one.

Mr. SPOONER. The immediate——

Mr. ALLEN. We have reports of battles, if you dignify them by that name, skirmish after skirmish in the Philippines, and Otis not upon the field of action in one of them.

Mr. SPOONER. Oh, Mr. President, that is absurd.

Mr. ALLEN. Well, it is true nevertheless.

Mr. SPOONER. General Otis was there attending to his duties. He had good lieutenants.

Mr. ALLEN. Yes, that is right.
Mr. SPOONER. He had the brave and generous Lawton.
Mr. ALLEN. That is right.
Mr. SPOONER. He sleeps over here now in sight of the Capitol, among the men with whom he served for the preservation of this Union. The last word almost which he sent to the American people was that men over here were prolonging and inciting that insurrection, and that if he were shot he might as well be shot by his own men.
Mr. ALLEN. I deny that he ever gave utterance to that sentiment. I have heard the Senator repeat that before.
Mr. PETTIGREW. I should like to have proof of the authenticity of that utterance, because Lawton has made statements that were entirely contrary to it. I have one here in my hand. The two do not go together. I should like to know which is the truth.
This is from the New York World correspondent. [Laughter.] I see the New York World is not very popular on this side of the house. It is from the correspondent of the New York World in Manila.
Mr. SPOONER. I wish the Senator would hurry.
Mr. PETTIGREW. It says:

General Lawton, during the last few months before his death, more than once expressed his discontent in his impulsive way.
"I'm going to the Transvaal," he exclaimed one day. "They are fighting my way down there."

That sounds a good deal more like Lawton than the other.

"No, you are not," Mrs. Lawton replied. "You are going back to California with me to raise oranges."

Then the correspondent goes on to say:

Now, that he has gone where no influence of an enemy can be brought to bear on him these things may be told. It is eight months since he said that 100,000 men were necessary for the pacification of these islands and authorized the publication of the statement.
"General Otis scolded me about it," he said afterwards, "but I didn't go back on what I said."

There are further quotations, but that is the point.
Mr. SPOONER. I have no doubt there were times over there when General Lawton was not satisfied. I have heard myself that he was not entirely satisfied with the way he was treated. That is not the matter I was talking about, nor is that any contradiction of what I said. This paper that I have in my hand is part of a letter which was written by General Lawton not long before his death to the Hon. John Barrett, ex-minister to Siam, whom he knew.
Mr. PETTIGREW. Do you know it was written?
Mr. SPOONER. The Senator reminds me of a lawyer who was defending a prisoner for murder. The evidence showed that the defendant stood with a revolver when the other man approached and fired it, and when he fired it the man fell dead. On cross-examination of a witness who saw it the counsel said to him, "Did you see this defendant?" "Yes." "Where was he?" "Well, he stood so and so." "Did he have a revolver in his hand?" "Yes." "Was it pointed at the deceased?" "Yes." "How far from him was it?" "Twelve feet." "Did he fire it?" "Yes." "Did the deceased drop when he fired it?" "Yes." "Did you go to him?" "Yes." "Was he dead?" "Yes." "Now, sir; I ask you to inform the jury, on your oath, whether you saw any bullet go out of the barrel of that revolver." [Laughter.]
General Lawton wrote—and this is altogether apart from what I wanted to say to the Senate—

I would to God that the whole truth of this whole Philippine situation could be known by everyone in America as I know it. If the so-called anti-imperialists would honestly ascertain the truth on the ground and not in distant America, they, whom I believe to be honest men misinformed, would be convinced of the error of their statements and conclusions, and of the unfortunate effect of their publications here. If I am shot by a Filipino bullet, it might as well come from one of my own men, because I know from observations, confirmed by captured prisoners, that the continuance of fighting is chiefly due to reports that are sent out from America.

Mr. PETTIGREW. What I asked was, What proof have you that that was written by Lawton?
Mr. SPOONER. In the first place, it was a signed letter written to Mr. John Barrett, and I assume he wrote it, because I believe it expresses the truth.
Mr. ALLEN. Have you the original letter?
Mr. SPOONER. No; I have not the original letter.
Mr. ALLEN. You have a printed copy?
Mr. SPOONER. This printed extract.
Mr. ALLEN. That is all.
Mr. SPOONER. Yes. If that is not enough I will furnish the original letter.
Mr. ALLEN. That would be better.
Mr. SPOONER. I do not know. Most men would be satisfied with the word of a man who had received the letter. Mr. Barrett told me he received the letter.
Mr. ALLEN. It would depend upon the veracity of the person who said he had read the letter.
Mr. SPOONER. It would depend upon whether it was an original and authentic letter.
Mr. ALLEN. I have seen it contradicted a half a dozen times.
Mr. SPOONER. By whom?
Mr. ALLEN. By reporters and others who profess to know. I can not call their names now. I know the Senator had it in his desk four months ago. He read it four months ago, or shortly after Lawton died,
Mr. SPOONER. I will read it again.
Mr. ALLEN. It has done duty here on several occasions. But that is not what I rose for. I wish to make a parliamentary inquiry.
Mr. President, I have never seen the rules of the Senate violated without some steps being taken to check it until an occasion like this comes up. There have been constant and repeated violations of the rules of the Senate during this discussion by the occupants of the galleries and by gentlemen who have the privileges of the floor. I want now to insist—I am perfectly willing that the Senator from Wisconsin shall have all the applause he sees fit to enjoy——
Mr. SPOONER. I need all I get.
Mr. ALLEN. I have no doubt of that, but I certainly insist that for political purposes and to aid imperialism and its greed for power——
Mr. SPOONER. I thought the Senator wanted to make a point of order.
Mr. ALLEN. I am stating it.
Mr. SPOONER. There is no imperialism in our rules that I know of.
Mr. ALLEN. The Senator should not put words in my mouth or tell me how I should state my proposition. The traditions and rules of the Senate should not be constantly violated, and the Senate of the United States turned into a town caucus.
The PRESIDENT pro tempore. There has been no applause or disturbance from the galleries during this speech.
Mr. ALLEN. I beg to differ.
The PRESIDENT pro tempore. There has been laughter on the part of Senators themselves, and the Chair has no right to call a Senator to order for laughter.
Mr. ALLEN. I beg the Chair's pardon. There was applause in the galleries. Sitting where I sit, I have heard it from the galleries.
The PRESIDENT pro tempore. The Chair has heard no applause.
Mr. ALLEN. I have.
Mr. SPOONER. There it is again. [Laughter.] This is a day of——
Mr. TELLER. There certainly has been great confusion in the Chamber and great confusion in the galleries. I think that it is time that confusion ceased, particularly on the floor of the Senate.
Mr. PETTIGREW. Mr. President, I wish simply to refer to what has already been said in connection with the Lawton matter very briefly, if I may be permitted.
The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from South Dakota?
Mr. SPOONER. Always.
Mr. PETTIGREW. I am not inclined to interrupt another Senator when he is making a speech. I seldom do it, and I think my fellow-Senators will bear me out in saying that, but I must say that it seems to me there has been a studied effort in the last two days to compel me to take a part in this debate by very pointed and direct allusions that justified what little participation I may have had in it. Therefore I do not feel like apologizing for what I may say.
I do not believe the statement, on the proof presented, came from General Lawton. I will believe it when such proof is brought as would satisfy a jury and be considered evidence. The statement is not like Lawton. The New York World correspondence is more like him. It seems to me it is going very far for any one to stand up in the Senate and undertake to insist, in view of all the facts that surround the case, that the people who believe that we ought to withdraw our armed forces and stop killing those people are guilty of the killing of our troops.
When Aguinaldo sent word that he wanted a truce, that we could fix the boundaries of a neutral zone, and we declined to answer, and the killing has gone on ever since, I submit that those who are so jealous of the honor of our flag that they object to its being used to destroy the liberties of other people, are not responsible for the killing that has resulted since that time. The responsibility rests upon those who insist on continuing a war of conquest in an effort to subject a people to a rule distasteful and unsatisfactory to them, and the responsibility is on no one else. It is in bad taste, unjustified under any circumstances, to bring into this forum any such charge; and I do not believe Lawton ever did it.
Mr. SPOONER. I will undertake to satisfy the Senator that the letter is a genuine letter.

The Senator from South Carolina quoted from General Otis that in the fighting that night the insurrectionists acted "strictly upon the defensive" and that our troops acted upon the aggressive. The Senator construes that as a statement by General Otis that we were responsible for the outbreak of hostilities. That is a manifest misconstruction. General Otis is there giving a report to the Secretary of War, using the language of a soldier to his superior officer, and he is referring to the operation of that battle from the tactical standpoint and not to the responsibility for opening the hostilities. It undoubtedly is true, as he states, that the Philippine army was intrenched partly around Manila. They fired upon our men from intrenchments, and the American soldiery in self-defense charged those intrenchments and assumed the aggressive, and drove them out of the intrenchments and out of the suburbs.

That is obviously what is meant by General Otis—that the one army fought behind intrenchments and did not charge, and that the other army charged the intrenchments and drove the enemy out; and that is in accord with the facts. I am glad the Senator called my attention to it because I had heard that statement before as authority for the proposition that General Otis had reported that the American troops opened hostilities and were the aggressors. They are the soldiers who charged the Filipinos after they had opened a general fire upon our lines. But General Otis was informed that rockets of a certain sort had been agreed upon as the signal upon which there should be a general engagement, and Admiral Dewey has stated that when the sentry fired the shot, followed by a fusillade, those rockets which had been agreed upon as signal for attack, he saw from his ship.

It has been said here, and it shows how forced to a ridiculous contention some of our friends are, that possibly as the lieutenant and his men did not understand the English language, they may not have understood the sentry when he called "Halt!"

Mr. President, think of it. There is not a soldier in the world who does not know, when a sentry stands with gun in hand, what it means, and when he utters a word with gun in hand, even an Indian on the plains knows what it means. It is the language of war. It means stop. It is more than mere language; it is more than a mere word. The attitude itself and the duty which the soldier is performing speak for themselves.

Mr. TILLMAN. Mr. President, I will assist the Senator in trying to bring out the facts. I should be glad if the Senator would allow me to make a suggestion.

Mr. SPOONER. I am paying a pretty heavy price for the assistance. I am anxious to get through.

Mr. TILLMAN. Why does the Senator look at the clock when I get up?

Mr. SPOONER. The Senator does not own the clock.

Mr. TILLMAN. I do not claim to own the clock.

Mr. SPOONER. I looked at the clock——

Mr. TILLMAN. If the Senator objects to my interruption——

Mr. SPOONER. I looked at the clock because I am anxious to get through.

Mr. TILLMAN. I do not think the Senator ought to object to giving the great pleasure he has been giving us now for three evenings in succession; and I am satisfied he has received attention as no other man has during this whole session of Congress. I have drunk in every word I could of his, and I have enjoyed it as much as though he was fighting on my side, because it is the most magnificent piece of special pleading that I have ever listened to or that I believe has ever been uttered on this floor.

Mr. SPOONER. Mr. President, I am chagrined that my observations have taken a portion of three sessions. I ask my colleagues to remember that it has been largely due to interruptions. But now I desire to be permitted to finish what I have to say without interruption.

Mr. TILLMAN. Of course, I will not interrupt the Senator if he objects.

Mr. SPOONER. I am anxious to be through for many reasons.

Mr. President, I will not take further time upon the question as to who commenced the battle. I will not discuss it in detail, although I would have been glad to do it, if I had not already been beguiled into delay on matters which are important to be considered in connection with this branch of the subject.

There is one significant thing which I have never heard alluded to by those who are so anxious and industrious to impress upon the people that we brought on hostilities and that we have been making war upon a people struggling for independence, and that is this:

Professor Worcester, in his address, "Some aspects of the Philippine question," states that under date of February 12, General Otis sent the following dispatch:

> Reported that insurgent representative at Washington telegraphed Aguinaldo to drive out Americans before arrival of reinforcements. The dispatch received Hongkong and mailed to Malolos, which decided on attack to be made about 7th. Eagerness of insurgent troops to engage precipitated battle.

There is the strongest possible corroboration of that statement. I know that in this city, stopping at the Arlington Hotel during the time we were debating the treaty, was a Filipino commission headed by Agoncillo, one of the Philippine junta, one who made an important speech on May 5 at the meeting which decided that Aguinaldo, against his will, should go to Manila.

And I know, Mr. President, that before any of us knew in this country that there had been any outbreak in Manila Agoncillo and one of his associates left the hotel. He left at midnight February 4 and went to Canada by the shortest route, and by the time we learned by cable from those distant islands that warfare had been commenced there and an attack had been made on the night of February 4 upon our troops, Agoncillo was near to the Canadian border. Why he suddenly fled from the United States in this surreptitious way and sought to be under another flag, I can not tell. Perhaps others can.

I have always thought, Mr. President, it was because he knew it had been arranged that on that night or on the next morning there would be an attack upon our troops in Manila by the insurgents, and thought it would be safer for him to be beyond the jurisdiction of the United States.

There is absolutely nothing, Mr. President, in my opinion, upon which to base the assertion that, in violation of General Otis's orders from the President, and in violation of Otis's orders to his men, our troops brought on that engagement. But the fighting went on. Our troops aggressively followed the insurrectionists. That was a legitimate part of self-defense. Nothing would require them, hostilities having broken out, to remain in Manila and allow the enemy to again surround the city, to again attack them at a disadvantage.

Now, Mr. President, whether the insurrection is ended or not, I do not know. I fear not until after election. From the time that treaty was ratified, which has been declared or characterized as a declaration of war, we have had an agitation in this country. Mr. Bryan, to whom I refer respectfully, came here and labored for the ratification of that treaty. If it was a declaration of war he must take his share of the responsibility for it. If it in itself involved imperialism he was a promoter of imperialism.

Before the treaty was ratified, January 9, he published in the New York Journal an elaborate article upon the subject, urging the ratification of the treaty, and a declaration of future policy as to the Philippines, strongly I thought, and think, foreshadowing, in the event of failure to make such a declaration, an aggressive issue against imperialism or colonialism, and from that time in all the speeches he has made, which I have read, he has made anti-imperialism the paramount feature of his political creed. Without impeaching the sincerity of his view against imperialism, as I understand it, or colonialism, when the time comes to decide that question, I have thought, and do think, that it was an attempt to make an issue where there is no issue, apparently born out of the necessity to obscure in some respects the issues of 1896.

For I insist, Mr. President, that *there is not in this day, nor has there been, any legitimate foundation for an issue of imperialism and antiimperialism.*

Mr. TELLER. Mr. President, I am loath to interrupt the Senator, but I think I ought to remind him, if he will allow me, that——

Mr. SPOONER. Yes.

Mr. TELLER. The question of imperialism was raised by Republicans long before Mr. Bryan said anything about it, and it was raised in this Chamber.

Mr. SPOONER. Ah, but those were the men who thought that the ratification of the treaty constituted imperialism and committed the country to it.

Mr. TELLER. Mr. President, they contended that the ratification of the treaty meant what they are now contending this Administration intends to do. Every contention they make to-day the members of the Republican party who are contending against what they call imperialism have made in this Chamber and stated that that would be the result of the ratification.

Mr. SPOONER. Ah, but, Mr. President, no man who helped to ratify the treaty is justified in denouncing that as imperialism or in asserting that by the ratification of that treaty the country became committed to the doctrine of imperialism.

Mr. TELLER. I will not allow the Senator to assert or to insinuate that I——

Mr. SPOONER. That remark could not refer to the Senator.

Mr. TELLER. Very well, then. Mr. President, I voted to ratify the treaty. I never regretted that I voted for it. I want to say that it is an unfair position for the Senator to take to charge that Mr. Bryan is the author of what is called anti-imperialism in this country.

Mr. SPOONER. Mr. Bryan is the most conspicuous and powerful leader of the Democratic party at this time, and he has done more, in the way of public speeches and writings, in attack upon what he calls imperialism than any other man in the country, and that is manifestly what he seeks and has sought to make

the principal issue in the campaign upon which we are shortly to enter.

I did not refer to my friend from Colorado. I voted for the treaty myself, and I stated before I voted for it that if I thought it committed this country to permanent dominion in the Philippines I should vote against it. What I mean to say, and I say it without fear of successful contradiction, is that there is no issue of imperialism and antiimperialism now, Mr. President, except it be made for party and political purposes.

Where is the issue of imperialism and antiimperialism? Upon what foundation of fact does it or can it rest *now?* Who has proposed imperialism in the Philippine Archipelago? Who could speak under the Constitution upon that subject? The President has had but one policy, and that is the policy of an executive. It is the policy to carry forward into execution the law. We ratified the treaty. We might have rejected it. We take our share of the responsibility for laying that foundation. We had passed the military bill. We had placed these soldiers at his command, knowing and intending, Mr. President, that he should use them, that he would use them to assert and maintain the sovereignty of the United States in the Philippine Archipelago.

Now, Mr. President——

Mr. TILLMAN. Mr. President——

Mr. SPOONER. That is territory of the United States.

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. SPOONER. Who can *dispose of it?* The President? No. The President has made no speech in which, as I recollect it, he did not assert that the power of disposition is in Congress. He says in his last annual message that the whole power of government there is in Congress. The Constitution provides that Congress shall have power "to dispose of and make all needful rules and regulations respecting the territory of the United States." The President can not do it. It is for Congress to do it. It is for Congress to say whether we will withdraw our Army from the Philippines or not, whether we will cede the Philippines or not, how we will govern the Philippines if we retain them, or how long we shall retain them. It is not for the President to say, nor has he arrogated to himself that function.

That power to "dispose of" the Philippines is *a continuing power*, Mr. President. It is not one that is lost by failure to exercise it this year or next year. It does not lapse by nonuser. It is not one that can be exercised by declaratory resolutions. It is one which requires legislation. Has there been any? Has there been any proposition of the kind? Not until the Senator from South Dakota introduced his amendment here a day or two ago, that I have known of.

Mr. TILLMAN. Mr. President——

Mr. SPOONER. In the years to come, Mr. President, if there shall be a time when the Philippine people, having under our tutelage and guidance been uplifted, having by years of participation in local government become familiar in a way with that science; when education shall have been more largely diffused in the islands; when they have come to know, as they will come to know, that we are their friends, not their enemies; when, in the opinion of the intelligent, patriotic people of the United States, the Philippine people are capable of self-government, capable of maintaining a government which will discharge the duties of a government, which will protect life and liberty and property, which, if you please, can discharge the obligations between nations, then, Mr. President, *if they want independence, and there shall be a party in this country which says "yes,"* and a *party in this country which says "no, we will govern them forever as a territory or colony," that will be an issue of imperialism and antiimperialism.* It can not come until then, and it can not be settled unless anduntil it shall have come. It is not here *now.*

Mr. TILLMAN. Mr. President——

The PRESIDING OFFICER (Mr. CHANDLER in the chair). Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. SPOONER. I must decline to yield, Mr. President. I hope my friend will pardon me, but that issue, I say again, Mr. President, is not here now except for party and partisan purposes. It is a forced and fictitious issue, Mr. President, and nothing else, and it is a baleful issue; it is a wicked issue. I speak only for myself. I represent no man's opinions here but my own, so far as I know; but, Mr. President, the utterances upon that alleged issue in this country, the agitation as to what in time to come shall be done with the Philippine people, has been in the highest degree harmful to our soldiery and embarrassing and obstructive in the discharge of Executive duty. It is my opinion that it has prolonged the insurrection; it is my opinion that it has cost millions of money and cost many, many lives. And that, too, when there is no such issue before the people, and when no party can rightly make it an issue now.

It was the duty, as I said the other day, of every man to say what he thought should be said upon that subject of ratification regardless of the effect it might have anywhere. But that is not the situation to-day. That has not been the situation any day since that treaty was ratified and since hostilities broke out in the Philippines. There are issues enough without this feigned issue. Has it done harm? Has it done good, I might rather ask? Almost every utterance, Mr. President, of a conspicuous man against what is termed "Imperialism" has been translated into the Spanish and circulated among the insurrectionists; and it would have been none different whatever in its effect if a great political party in this country had sent a message to them, "Maintain your insurrection until after the election, and if we succeed at the polls we will give you independence."

I received from a commander in the Navy the other day, to illustrate what I mean, this paper. A city of 17,000 people had just been captured over there by our Army, and in the offing were two vessels of the Navy. Some of the officers with marines went to the city. I only mention this to show how closely they follow public opinion and utterances in the United States. They found posted up in conspicuous places around that city this poster in Spanish. I have here the translation of it, an effort against what is called imperialism, against what is characterized as brutal policy on the part of the United States, a willingness to subjugate a people and to hold them in slavery.

[Translation of circular or proclamation.]

From the provincial chief of this province received to-day, the 9th of December, the tenor of which is as follows:

I have the great pleasure of informing your excellencies that you may in your town cause to be publicly known that data according to the foreign newspapers very strongly favorable to the independence of our fatherland exists in the fact that the party of the North American people which calls itself the Democratic party, preserving unimpaired its ancient principles and traditional institutions by which it obtained in the past century the independence of its own country, emancipating it from England, sustains and defends to-day with ardor the declaration independence of the Philippines and that the Massachusetts periodical having the widest circulation among the agriculturists of the country known under the name of The Farm and Home——

The Farm and Home. Does the Senator from Massachusetts know that paper?

Mr. LODGE. I do.

Mr. SPOONER (reading)—

The Farm and Home, having interested its subscribers in the subject, asked that they manifest themselves in favor of the independence of the Philippines or their annexation with the following results:

Section.	For independence.	For annexation.
New England	1.277	.785
Middle States	8.888	2.343
Central West	4.901	3.102
Southern States	1.792	1.083
Pacific coast	1.684	1.103
Total	18.524	8.416

May Providence decree that in the election for the President of the United States the Democratic party, which defends us, shall triumph, and not the imperialistic party, which is headed by Mr. McKinley, and which attacks us.

I presume this was all over the Philippines—

The great Democrat, Dr. Bryan, one of the most eminent men of the United States, is assured that he will be the future President, and then our happy hours begin. There have also been celebrated in New York and Chicago great meetings and banquets in honor of our dearly beloved president, Sr. Aguinaldo, who was entitled one of the world's true heroes.

The masses who have thus voted in our favor have done the same with reference to Cuba, asking her independence, for which she is already to-day struggling.

Finally, the conduct of the Filipino annexationists condemns itself. They have changed their flag as they change their shirts, and are animated solely by momentary lust of stolen gold; but by their own vile conduct, aided by their thieving country, they are only raising their own scaffold.

God guard your excellencies many years.

Guinabatan, December 4, 1899.

SIG. DOMINGO SAMSON.

I have here a number of extracts translated from La Independencia, published in the Philippines. I will read but a few of them:

AN ADVERSARY OF M'KINLEY.

Mr. Bryan, the competitor of McKinley in the last Presidential election and the candidate selected for the future by the Democratic party, has published a manifesto which has caused a profound sensation in the United States.

Mr. Bryan announces himself decidedly opposed to the imperial policy of the Government, and shows the danger in which American institutions will be placed by this entirely new ambition for colonization. * * * He asks that the régime instituted in Cuba be applied to all the territory taken from Spain. * * *

To place the American yoke on the millions of natives who wish to be free, 200,000 men will be needed. * * * February 2, 1899.

A great popular meeting was held in New York on February 23 to protest against the imperialistic policy of the United States. March 8, 1899.

BRYAN SPEAKS.

Mr. Bryan * * * declared at a great meeting at Denver that the United States could not institute a colonial policy. "Imperialism," he said, "may increase our territory, but it will lower our ideals. It is a step backward, etc." March 28, 1899.

Mr. PETTIGREW. May I ask the Senator from what he is reading?

Mr. SPOONER. I am reading an extract from a newspaper

published in the Philippines and supported by Aguinaldo called La Independencia.

Mr. ALLEN. Will the Senator permit me to ask if he is reading from the original paper?

Mr. SPOONER. I can not read from the original paper, as that is in Spanish.

Mr. ALLEN. The Senator is reading a translation?

Mr. SPOONER. Yes; a translation.

Mr. ALLEN. By whom was the translation the Senator is reading made?

Mr. SPOONER. By an officer of the Army.

Mr. ALLEN. Did the Senator get it from the officer who translated it?

Mr. SPOONER. No, sir; I did not get it from the officer who translated it.

Mr. ALLEN. Has the Senator any knowledge of the genuineness of the translation?

Mr. SPOONER. I only know that it was translated in the War Department and given me as a correct translation. The papers are all in the War Department. I saw them there.

Mr. ALLEN. Does the Senator hold Mr. Bryan responsible for what that translation states?

Mr. SPOONER. That is not what I am saying. So far as that is concerned, what the paper states is substantially a fact.

Mr. ALLEN. I do not doubt that the Senator thinks so; but I hope the Senator will not snap at me quite so savagely.

Mr. SPOONER. I did not mean to be offensive, and I hope the Senator is not alarmed.

Mr. ALLEN. Before the Senator scares me entirely away I wish to ask him if he has seen a translation of the speech which was made by the junior Senator from Indiana [Mr. BEVERIDGE], which was cabled to Manila, translated into Spanish, and circulated among the Filipinos as conclusive evidence that this Government never did intend to give those people their liberty?

Mr. SPOONER. I have not.

Mr. ALLEN. But the Senator recognizes that that was done, does he not?

Mr. SPOONER. I do not know it.

Mr. TILLMAN. I have seen that statement made.

Mr. ALLEN. I understood it was done, and I have as good authority for saying that it was done as the Senator has for what he says.

Mr. SPOONER. I think not.

Mr. ALLEN. Indeed, I have.

Mr. SPOONER. In the first place, these statements imputed to Mr. Bryan and other gentlemen were, in subtance, made here in public. There is no doubt about that; and they were cabled over there. I am not assuming now that it was ever the purpose of anyone here to make trouble over there, nor do I believe such a thing, of course. I am only saying that this agitation and these utterances upon an alleged issue, which does not exist, have done and will do great mischief. That is all.

Mr. ALLEN. I am trying to find out as to the facts. I am not prepared to affirm or disaffirm what the Senator says; but what authority has the Senator for placing before the Senate and the world these statements which he has presented as authentic?

Mr. SPOONER. I place them before the Senate as authentic because they were given to me, and I think they are correct translations. The Senator can find the paper at the War Department and translate it for himself.

Mr. ALLEN. No; I can not.

Mr. SPOONER. And verify the correctness of the translation.

Mr. ALLEN. I regret to say that I only know one language, and that very imperfectly; and so I would not know anything about it if I had the papers; but the Senator, being an English and a Spanish scholar as well, I suppose, could probably have compared these translations with the original text, and would be able to supply that hiatus in the proof.

Mr. SPOONER. To whom is the Senator referring?

Mr. ALLEN. I am referring to the senior Senator from Wisconsin.

Mr. SPOONER. I am not a Spanish scholar.

Mr. ALLEN. I thought the Senator was.

I have always given the Senator credit for knowing all about languages and about a great many other things, and I always interrupt him with a great deal of diffidence, knowing his universal knowledge compared with the feeble amount of information that I have been able to pick up.

When I take occasion to interrupt the Senator it is as to things that come to my mind in the course of debate, and I want to know the connection of these things and the proof.

Mr. SPOONER. I have stated to the Senator that I can show him the paper, and if he thinks this is not a correct translation he can bring it to the attention of the country.

Mr. ALLEN. The burden is upon the Senator to prove that the translation is correct. When the Senator introduces a document in evidence he must lay the foundation by proving that it is genuine, and tracing the proofs step by step up to the document which he seeks to introduce; and now the Senator proposes that I shall assume the burden of disproving the genuineness of the document that he seeks to introduce. I decline that invitation.

Mr. SPOONER. I went to the War Department to get the correct translation, and the Senator ought to go there if he thinks it is not a correct translation and verify it.

Mr. ALLEN. I shall not go to the War Department. I have no business at the War Department.

Mr. SPOONER. This is business.

Mr. ALLEN. I know it is, but possibly if I went to the War Department, with this lingering suspicion upon my mind, the opportunity of ascertaining the correctness or incorrectness of the translation would not be as open to me as to the Senator from Wisconsin.

Mr. SPOONER. I think, Mr. President, that is an entirely unjustifiable imputation upon the War Department. The Senator may think that, but I am satisfied he will find he is mistaken.

Mr. ALLEN. I do not mean to impute anything against the War Department, but the Senator knows human nature just as well as I.

Mr. SPOONER. Mr. President, just to show further the effect in the Phillipines of this agitation and the discussion of this attempted issue, which is not an issue, I read this, which was telegraphed from over there. The original was in Spanish, and I can not swear to the translation, but I should think it correct from its contents.

Mr. ALLEN. What does the Senator say about the issue?

Mr. SPOONER. I say that there is no issue of imperialism and antiimperialism between the Republican party and the Democratic party, except as made by the Democratic party for campaign purposes.

Mr. ALLEN. I am not speaking for the Democratic party at all.

Mr. SPOONER. Well, the Populist party. I forgot that.

Mr. ALLEN. I am speaking for no party. Now, what is the attitude of the Republican party on that question?

Mr. SPOONER. The attitude of the Republican party is this, so far as I know: It is first to enforce and maintain the authority of the United States in the Philippine Archipelago.

Mr. ALLEN. And that being done, what follows?

Mr. SPOONER. To organize as speedily as possible civil governments there, adapted to the necessities of the different tribes and people; to give them honest courts of justice; to abolish—and that has already been done—the ecclesiastical courts, so that the friar may be brought to the ordinary court and tried as are other men for an offense which he commits; to protect life and liberty and property; to fill that country with schoolhouses——

Mr. ALLEN. And churches.

Mr. SPOONER. To give the people an opportunity for education; to be just and generous to those people, giving them participation in the local governments there as large as possible at first, and on increasing lines as they may show themselves fitted for it; to honestly expend the moneys collected from taxation there in their interests and for their benefit; to maintain laws there, Mr. President, so honestly and firmly that no man, however rich, shall be beyond their reach if he does wrong, and no man, however humble, shall be denied their support or protection if he is wronged.

Mr. ALLEN. I concur with the Senator in that.

Mr. SPOONER. In short, Mr. President, to carry to that people what they have never had before, and what the American flag always carries to a people—generosity, justice, liberty, and the blessings and advantages of our civilization as far and as fast as possible.

Mr. ALLEN. I heartily concur with everything the Senator says on that point.

Mr. SPOONER. Is there any imperialism in that?

Mr. ALLEN. I stand side by side with the Senator up to that point. Now, all these things being accomplished, what does the Senator propose to do with those islands?

Mr. SPOONER. All these things being accomplished—it will take some time to accomplish them——

Mr. ALLEN. Yes.

Mr. SPOONER. Doing our level best——

Mr. ALLEN. All the time.

Mr. SPOONER. It will take a long time to accomplish that.

Mr. ALLEN. Some years.

Mr. SPOONER. Some years—and the Senator is in favor of that?

Mr. ALLEN. It will take some years to do it.

Mr. SPOONER. Some years to do it—then, Mr. President, where is your issue of imperialism *now?*

Mr. ALLEN. What I ask the Senator, then, is—these years having passed by, having passed into eternity, all these things having been accomplished—what does the Senator propose to do with those islands?

Mr. SPOONER. I do not expect to be here. I say it is a wicked thing to attempt to make that issue now, with our Army in the field, and with work before us to which the Senator agrees, which will, even upon the Senator's own admission, take some years yet.

Mr. ALLEN. No; the Senator can not run away by saying——

Mr. SPOONER. I run away from nobody.

Mr. ALLEN. No, I think not; but the Senator can not run away, metaphorically speaking, of course, from the argument by personalizing himself.

Mr. SPOONER. If the Senator will permit me, he was out when I submitted observations upon that subject.

Mr. ALLEN. Then, I will put the question differently. Is there ever a time, or will the time ever come in the history of the Philippines, all these things being accomplished, when those people will be allowed to erect an independent civil government for themselves?

Mr. SPOONER. I will restate, Mr. President, that in all these constant agitations and denunciations—and the Senator ought to know it, and those for whom he speaks ought to know it—the power to govern and dispose of the Philippine Archipelago is not in any Administration; it is not in any President, but, under the Constitution, it is in Congress. As I said before the Senator came in, what we are concerned about now is the discharge, in a manful way, of present duty. What will in the ultimate be the policy of the American people in the Philippine Archipelago is for the American people to say when that day comes. I do not hesitate to assert my conviction that when the day does come that the Philippine inhabitants have so far evidenced their ability to maintain a government—to discharge its functions—that they can safely be intrusted with independence, and they want it, the American people will give it to them.

Mr. ALLEN. Will the Republican party give it to them?

Mr. SPOONER. I am not talking about the Republican party.

Mr. ALLEN. I thought you were.

Mr. SPOONER. That is the trouble with all this business, Mr. President. It is party, party, party, and nothing else, and that is what I complain of.

Mr. ALLEN. The Senator has been arguing for his party for three days upon this subject.

Mr. SPOONER. I have not been arguing for my party, except in this sense: I have been attempting in a frank way to defend the Administration of my party against what I consider unjust accusations. That is proper.

Mr. ALLEN. I have put the Senator a fair question.

Mr. SPOONER. Yes.

Mr. ALLEN. It will only take one of two words to answer it. Does the Republican party propose at any time, if it is in power, all these things and all these blessings to which the Senator has referred having been accomplished, to give those people an independent government?

Mr. SPOONER. I can not speak for the Republican party.

Mr. ALLEN. That question is capable of an answer.

Mr. SPOONER. Does the Democratic party propose to do that?

Mr. ALLEN. I do not know anything about the Democratic party.

Mr. SPOONER. Well, does the Populist party propose to do it?

Mr. ALLEN. Yes, sir.

Mr. SPOONER. Then why have they not said so?

Mr. ALLEN. They have said so in their platform recently at Sioux Falls, as the Senator will see by a reference to it.

Mr. SPOONER. When are they going to do it?

Mr. ALLEN. Just as soon as the matter can be adjusted between the two governments.

Mr. SPOONER. Adjusted between what two governments?

Mr. ALLEN. Adjusted as between the two peoples. In the first place, when the Populist party is in power it will not be too cowardly to do this.

Mr. SPOONER. Between what two governments?

Mr. ALLEN. The United States and the Philippine Islands?

Mr. SPOONER. But an island is not a government.

Mr. ALLEN. I think I know something about the attitude there. I will say "the Philippine people," if that will suit the Senator better.

Mr. SPOONER. Very well.

Mr. ALLEN. The Populist party would do what the Republican party will never do, in my judgment. There will never be an offer to adjust the differences between this people and that people so long as the Republican party is in power until we shoot down every man in those islands.

Mr. SPOONER. Oh!

Mr. ALLEN. The Populist party would offer to those people the blessings of civil liberty immediately. It would not go to them with shot and shell and sword and bayonet and artillery, but would go to them with a mission of peace, and by peaceful means put them upon their feet, making for them a government, and sustaining them against all the encroachments of Europe; but the Republican party, full and drunken and intoxicated with power, with greed, with lust of empire, never will do anything of that kind.

Mr. SPOONER. I do not think the Republican party is very much intoxicated. I do not assume to say what the Republican party will do in five years from now, and I do not think the Senator has any warrant for saying what the Democratic party will do five years from now, or what the Populist party will do five years from now. We can not proceed upon mere speculation. I am content with discharging present duty.

Mr. ALLEN. So am I.

Mr. SPOONER. I want to maintain the authority of the United States in the Philippines. Does not the Senator?

Mr. ALLEN. So long as we have any right in the Philippine Islands, I want to maintain the authority of the United States there. I have said so months and months ago in this Chamber, and I say so now; but I do not want to go to those people with guns, and swords, and bayonets, and munitions of war, without first going to them with a mission of peace, with a full assurance that if they surrender their arms and cease their contention against the sovereignty of the United States, which is there for the time being, they shall be made an independent people with an independent constitution, just exactly as God has determined, in my judgment, that every free people should be. I would do that first.

Mr. SPOONER. Mr. President, I decline to be further interrupted, for I must finish my speech.

Mr. ALLEN. I beg the Senator's pardon for having interrupted him.

Mr. SPOONER. I was saying that the Republican party is in favor of discharging present duty. There is a plain pathway before us, Mr. President, and that is to maintain authority in the Philippine Islands, and to use that as the foundation for the creation there of a government. It can only be done in that way, and already, Mr. President, although that people have been prejudiced against us—prejudiced by the friars, prejudiced by the Spanish soldiery who are left there, prejudiced in every conceivable way, prejudiced by utterances in the United States, suggesting that we intend to put them into slavery and under a yoke—we are winning, as rapidly as we could expect, their confidence and their respect, and we should proceed with that work. We shall win it, because we will deserve it.

While I can not speak for the Republican party in the future, any more than another Senator can speak for the Democratic party or the Populist party in the future, I repeat that when the day shall come that that people is fitted to maintain an independent government—one which can discharge its international obligations; one which can protect life, liberty, and property at home—and the question is, whether they shall have it, if they want it, or whether we shall keep them forever in the condition of dependence or territorial government; I have no doubt that the American people—Democrats, and Republicans, and Populists—will say that they shall have it, and, with all that, I never expect the American flag to come down in the Philippine Islands.

This is consistent with all I have said. Having the title, we can, in anything the people may do as to the Philippines in the future, make such reservations to ourselves, or exceptions, as are right and needful for safeguarding our interests in the Orient. We can have there naval stations for our war ships, a safe resting place for our Pacific commerce, and our flag as it floats there will forever be evidence to the world of our interest in the archipelago, and our interest in its people.

I was saying, Mr. President—and I ought not to have consented to these interruptions—that there is no such issue here now, and, practically, the Senator from Nebraska [Mr. ALLEN] admits it.

In October, 1879, Aguinaldo published a signed manifesto in La Indepencia in which he said—

"*We ask God that he may grant the triumph of the Democratic party in the United States, which is the party which defends the Philippines, and that Imperialism may cease from its mad idea of subduing us with its arms.*"

I will read another evidence of the malign influence over there of this agitation upon a vain and false issue for political purposes. Here is a captured document translated into English:

[Telegram.]

In the United States meetings and banquets have been held in honor of our honorable President, Don Emilio Aguinaldo, who was proclaimed by Mr. Bryan, the future President of the United States, as one of the heroes of the world.

The Masonic society, interpreting the unanimous desire of the people, together with the Government, organizes a meeting and popular assembly in this capital in favor of the national independence, which will take place on Sunday the 29th, in honor of Mr. Bryan and the anti-imperialist party which defends our cause in the United States.

All the Masons and all the Filipino people are called to take part in this solemn act. The meeting will be composed of three parts: First. At 8 in the morning on the 29th, a gathering in an appropriate place will take place, which will begin by singing the national hymn; then appropriate speeches will be read. Second. At midday a banquet will take place in the palace in honor of Mr. Bryan, who will be

represented by American prisoners. Third. At 4 in the afternoon a popular manifestation will take place everywhere—the people will decorate and illuminate their houses, bands of music will pass through the streets.

[SEAL.] THE SECRETARY OF THE INTERIOR.

TARLAC, October 27, 1899.

To all the provincial, local, and military commanders in this capital, Nuncia Capas, Bangbang, Gerona, Panique, and Victoria, the president of the audiencia of Bayambang, and the editor of La Independencia.

I certify that this translation is correct, to the best of my belief.

JOHN R. M. TAYLOR,
Captain, Fourteenth Infantry, in charge insurgent records.

MANILA, *February 23, 1900.*

Here is the Spanish telegram:

ASAMBLEA DE MUJERES.

Se verificara el 2 de Noviembre de 1899, en el Teatro de Tarlac.

En honor de la Independencia patria y del pueblo americano que simpatiza con la nacion Filipina.

Programa.

Primera parte.

(6 mañana.)

Diana—Las bandas de musica recorreran la poblacion.

(8 mañana.)

Acto inaugural—Marcha Nacional.
Discurso de apertura por la Presidenta.
Lectura de telegramas.
Discursos y poesias.
Donativos para los heridos en campana.
HIMNO: AGUINALDO—BRYAN.
Paso doble: La Independencia.

Segunda parte.

(4 tarde.)

Manifestacion popular.

* * * * * * *

Here is another:

FILIPINO REPUBLIC, *Secretary of Foreign Affairs:*

Wishing to hold a meeting in the morning of Sunday next in the Presidential Palace of this republic to correspond with the one held in the United States by Mr. Bryan, who toasted our honorable president as one of the heroes of the world, and with the object of carrying this out with the utmost pomp and with contributing by the presence of your subordinates to its greater splendor, I would be obliged if you would come to see me for a conference upon this matter.

May God keep you many years.

Tarlac, October 26, 1899.

FELIPE BUENCAMINO,
The Secretary.

The SECRETARY OF THE INTERIOR.

Here is the telegram from the secretary of war, Tarlac:

[Telegram. Reg. No. 32.]

No. 612. Rs. 70. DE DAGUPAN, 1.34 p. m.

Ba. 29 de 10 de 1899. fls. 11.30 el office de Guerra.

MONSON.

SECRETARY OF WAR, *Tarlac:*

Provincial Chief Zambales. Received your circular by telegraph yesterday. Was received with great animation and patriotic enthusiasm by the people gathered in a great reunion in government house. We had early this morning a gathering of civil and military officers and private persons to celebrate the independence of the country and in honor of Mr. Bryan, and at 4 p. m. we shall have the second part of the meeting. We all join in congratulating our honorable president, the government, and the army.

I read these, Mr. President, not to impute the purpose to anyone in this country to do harm over there to our Army, for I know that is not true, but to show that this agitation against the Republican party as an imperialistic party, and against the President of of the United States, now Commander in Chief of the Army, as a a man of ambition, with a lust for empire, regardless of the liberty of others, and the attitude of the Democratic party as favoring the independence of that people, is known over there and acted upon over there.

Mr. President, I beg leave to say that it furnishes much warrant for the belief that General Lawton wrote that letter, because it furnishes evidence that on the issue of imperialism or antiimperialism, if the Republican party is defeated at the next election, it is expected that independence will go at once to the Philippine republic, so called, and it conveys to them and furnishes to them the strongest imaginable motive for continuing their insurrection.

The first thing to do is what we are doing to-day—to put an end to the insurrection, to lay the foundation of peace for the victories and blessings of peace, and to try this question of imperialism, if it ever arises in the United States, when it arises, and at least to be silent upon it while our Army is in the field to be injured by it. That is the way I feel about it, and I believe that is the way the American people will feel about it. I think they will not be deceived by this talk of imperialism and anti-imperialism. They may listen to your talk during the campaign about the violated Declaration of Independence, about the Constitution being trampled upon; they may seem to hear you, but they will realize that there is no such issue in this campaign, and they will be thinking of the men over there who are suffering and in danger partly as a consequence of the *attempt here to obscure one issue by manufacturing another.*

Mr. President, when I introduced this *bill* there were two resolutions pending before the Senate. One was the resolution introduced by the Senator from Indiana [Mr. BEVERIDGE], declaring that we own the Philippines and will retain them, and establish such government there as we may deem best. I could not vote for that resolution. If we own the Philippines, a mere declaration that we own them adds nothing to our title. If we do not own them such a declaration will not make them ours. This Congress can not bind any subsequent Congress, and a declaration that we intend to hold the Philippines forever binds no subsequent Congress, and is merely an empty declaration.

The other resolution pending is that introduced by the distinguished Senator from Georgia [Mr. BACON]. It is based upon the theory that we acquired title by the cession and have completed it by subsequent possession. It contemplates that the authority of the United States shall be maintained there until armed resistance to it shall have ceased in said islands and peace and order shall have been restored, and it declares that when a stable government shall, through the agency of the United States, have been created by the people of the islands, "competent and worthy, in the judgment of the United States, to exercise the powers of an independent government, and to preserve peace and maintain order within its jurisdiction, it is the purpose and intention of the United States," reserving certain harbors and tracts of land for coaling stations, etc., to transfer to said government, upon terms which shall be reasonable and just, all right and territory secured in said islands under the treaty with Spain, and to thereupon leave the dominion and control of said islands to their people.

While approving much in this resolution, Mr. President, I can not vote for it. I refused to vote for the McEnery resolution, which passed the Senate, because of the conditions of that day, and my belief that it would be unproductive of good and only fruitful of mischief.

I oppose the resolution of the Senator from Georgia, among other things, because it is not legislation. It is not an exercise of any power which the Constitution confers upon Congress. It does not dispose of the Philippine Archipelago. It is ineffective. It is only declaratory. It projects into the future a promise which we have no power to make, to be redeemed or left unredeemed by succeeding Congresses. No one can know when the year will come for the fulfillment of this pledge. Inevitably, upon the theory of the resolution, its redemption will require years.

It will doubtless be years before a government can be formed in the Philippines by the people "competent and worthy in the judgment of the United States to exercise the powers of an independent government." In the intervening time this moral obligation would be outstanding. The ambitious Philippine leaders would impress upon the people that the pledge was ripe for redemption; that the government was "competent and worthy to be independent," and would be sincere in that belief. That they would differ with the United States upon that subject is as certain as that the day will follow the night. That there would be controversy and dispute over it is inevitable. Gentlemen of great name and ability have stated that they are now fit for self-government.

Mr. PETTIGREW. Dewey said so.

Mr. SPOONER. He said they were better fitted for self-government than the Cubans. That is all I have ever heard imputed to him upon the subject.

Senators have stated here that they possessed a government before the outbreak of hostilities entitled to be recognized, with a constitution, a congress, and courts, and colleges. Whether, left to themselves, these evidences of civilization would have been afforded by the Filipinos I do not know. To me they are the only evidences of good government left by Spain in the archipelago.

That they are unfit for self-government now I think is overwhelmingly demonstrated.

I can not doubt, in view of the entire situation, that they would differ with us as to their qualifications for independent government, and that out of the fulfillment of this Congressional promise, if it were made, there would arise trouble, agitation, charges of repudiation and bad faith, and possibly insurrection, with its burdens and complications.

Why project into the future such a promise? It is not needful, unless Senators are afraid to trust the people. May not the decision of this question be safely left to the American people? Senators need not fear that they will be wanting in love of liberty, in regard for the Declaration of Independence, or in loyalty to the Constitution. It is not needful for the Congress of to-day to protect the American people by pledges of this sort *against themselves in settling the questions of the future.*

As to the bill which I introduced, I claim for it nothing of originality. It has been read by the Senator from South Carolina. It is legislation. It is fashioned after the Louisiana bill. It is fashioned after the Hawaiian resolution. It deals with the situation as it is. It is very short. It assumes our sovereignty there. It recognizes that we acquired the archipelago by

the treaty. It assumes the fact that we will enforce obedience to our authority over there, and then provides, after the war shall have ended, for a government by the President through his appointees, (not to be permanent, not to make the President a proconsul) until *Congress shall otherwise provide.*

I would vote for it whoever occupied the Presidential chair, whatever party he came from, because the Senate knows we have not the information as to the conditions over there to enable us to pass a government bill now. There are eighty-four tribes. Some of them are hostile to each other. We know very little of them. We do not know what form of government is adapted to that people. The President has the power now and it will continue until Congress acts, under the war power, to establish a government and maintain it.

My purpose in this bill was first to show to the people that the Congress is behind the Administration in the Philippines to meet it, if it might be met—the belief which has been created over there that the people of this country are not behind the Administration and the Army. Moreover, I thought that Congress ought to put this measure of authority behind the President, when insurrection shall have been suppressed, in governing a people seven thousand miles away, ten million of comparative strangers. To leave it all to his war power seemed to me unjust. That was all. It was no play for politics. It was not to shelve any question or to evade any question. It is upon the theory which I have asserted here to-day, that there is no issue here of imperialism or anti-imperialism.

Mr. President, in my heart I believe that. Thus far it has been largely force, not subjugation, but subduing insurrection, from my standpoint. We know comparatively little of that people. General Otis says in a recent interview:

> We are spending $300,000 now in road making and could spend hundreds of thousands more most advantageously. The Filipinos are enthusiastic about roads, the construction of which gives employment to many of them. If it was possible to grant franchises for railroads, it would be a good thing, but all that will come in time. Roads and good schools are better.
>
> It is astonishing how eager these people are for schools. They are clamoring for them everywhere. We bought $40,000 worth of books and have exhausted the supply of Spanish-English primers. I told some prominent Filipinos that they must wait for a new supply, but they said no, and suggested that we give English instead of Spanish books, declaring that the children would learn very quickly. If I were to continue here and had my way, I would build schools everywhere. I would build a big two-story schoolhouse on that open lot in front of the first reserve hospital if it cost a million dollars. All this is hopeful.

I do not share altogether the view of the Senator from Indiana [Mr. BEVERIDGE] as to that people. I believe they have aptitude for government. Bishop Potter says the children take to our soldiers as friends. He says they are anxious to learn. I have an abiding faith that when they come to know us, to understand us, when they feel our sense of justice, when they feel the protection which we will throw around them, when we build roads for them, when we furnish them with schoolbooks, they will accept the situation. A resigned army officer is now teaching school there, and he speaks in the very highest terms of the intelligence and the eagerness for instruction on the part of the Filipino children, and of their parents that they shall have it. If some Senators are right as to their capacity for self-government our task will be easier.

We have a difficult problem to solve. I wish it were not upon us. But we have had difficult problems before.

I believe before very many years that people, participating as we go along in local government, will have faith in us, and that they will be able to maintain at least an autonomous government, although for many, many years they will need our protection and our care and guidance. And the men who deliberately charge in high places that the flag of the United States is there as an emblem of slavery, that it is there for oppression, do great injustice to this nation and great injustice to the American people. Why not trust them?

Mr. PETTIGREW. Is the Constitution there with the flag?

Mr. SPOONER. Whether the Constitution is there with the flag or not, men are there under the flag who will give to that people every element of individual liberty which we have under the Constitution. Already under that flag by military order the habeas corpus has been put in operation throughout the archipelago. Already under that flag the ecclesiastical court, which was a court of oppression, has been abolished; and already that flag has carried to that people, as it always does carry to a people, liberty, protection, and honest, responsible government.

I have said nothing of the richness of the islands in mineral and other resources. I sincerely trust, for the benefit of the inhabitants, that the glowing story told of undeveloped wealth there is an understatement. I hope it for the sake of that people, and also as lightening the burden which duty seems to place upon us.

Mr. President, I have submitted to interruptions so that my speech has been discursive. I have not entirely followed the line which I should otherwise have done. Without purpose to be discourteous or unjust to anyone, I have said frankly what I believe. The President has left this matter to Congress. I want to read here an extract from his message as expressive not only of the views of the Administration, but of the American people, in my judgment, for they will stand by an Executive doing his duty and by their Army wherever it is on duty, and will discountenance any policy which in this country is inaugurated, the effect of which will be to prolong insurrection or to endanger the lives of their soldiery.

Mr. PETTIGREW. Does the Senator mean to say they will stand behind it whether right or wrong?

Mr. SPOONER. Right or wrong, I say, they are behind it; but they are right. That is a question for the people to determine, not for the Senator. The President says in his message:

> Until Congress shall have made known the formal expression of its will I shall use the authority vested in me by the Constitution and the statutes to uphold the sovereignty of the United States in those distant islands as in all other places where our flag rightfully floats. I shall put at the disposal of the Army and Navy all the means which the liberality of Congress and the people have provided to cause this unprovoked and wasteful insurrection to cease.
>
> If any orders of mine were required to insure the merciful conduct of military and naval operations, they would not be lacking; but every step of the progress of our troops has been marked by a humanity which has surprised even the misguided insurgents. The truest kindness to them will be a swift and effective defeat of their present leader. The hour of victory will be the hour of clemency and reconstruction.
>
> No effort will be spared to build up the waste places desolated by war and by long years of misgovernment. We shall not wait for the end of strife to begin the benificent work.

Nor has he waited.

> We shall continue, as we have begun, to open the schools and the churches, to set the courts in operation, to foster industry and trade and agriculture, and in every way in our power to make these people whom Providence has brought within our jurisdiction feel that it is their liberty and not our power, their welfare and not our gain, we are seeking to enhance. Our flag has never waved over any community but in blessing. I believe the Filipinos will soon recognize the fact that it has not lost its gift of benediction in its world-wide journey to their shores.

Mr. ALLEN. Does the President anywhere in his message say that at any time they shall have a free and independent government?

Mr. SPOONER. The President is President; he does not claim to be a prophet; he leaves to the future what belongs to the future, but what he says there is the language of patriotism. It is the language of philanthrophy. It interprets the genius of our institutions. It is in harmony with the nature of the man and with his career. There is in it nothing but goodwill, nothing but kindness. There is in it nothing of exploitation. There is in it nothing of commercialism. There is in it nothing of imperialism. We are to go along. We will make mistakes. We will fall down, but we will pick ourselves up. We will cross bridges as we come to them, and when we come to streams without bridges we will build them. We will feel our way. We will go forward in a manful fashion, with a holy purpose to do what is just and generous and right.

No American has any right to doubt that. We will become acquainted with the conditions. We will teach those people to know us. We will give them every opportunity in the school of government. We will govern them, not for our benefit, but for theirs, and in the end the day will come, in my opinion, and I believe it will be sooner than I once thought it would be, when that people, with confidence in us and friendship for us, with prosperity among them, with an appreciation of liberty, with some knowledge of what government is, will be able to maintain an autonomous or independent government; and when that day comes I doubt not the American people, of all parties, will promptly accord it to them.

If, Mr. President, in the end it shall come about that through the Spanish-American war we shall have liberated Cuba from the tyranny of Spain, enabled its people to erect an independent government, stable and strong; have made happy and prosperous the people of Porto Rico, and in the far-away Pacific have brought a nonhomogeneous people together into one people, educated them for self-government or independence and given it to them, though it shall have cost much of patience, of trouble, and of sacrifice, we shall have wrought out a consummation more glorious, and afforded a nobler evidence of what a liberty-loving people can and will do for liberty, than has ever before been seen in the history of the world. [Applause in the galleries.]

Mr. MORGAN obtained the floor.

Mr. TELLER. Will the Senator from Alabama yield to me for a moment?

Mr. MORGAN. Certainly.

Mr. TELLER. I understand that the Senator from Alabama proposes to address the Senate on the pending measure. I wish to give notice that when he has finished I shall ask the Senate to allow me to take the floor.

Mr. MORGAN. Mr. President, I have been waiting here for fifty days to get an opportunity to express some views upon this very important bill, which I conceive to be far more important than any bill that has been presented on the subject of our insular possessions since we acquired them. Two speeches have been delivered by distinguished Senators in favor of the bill, covering four days of time, and no word has as yet been heard from anyone who is opposed to it, as I am. I have prepared my remarks in writing in order that they might be accurate and exact in form

and in substance, and in order that I might possibly escape some of those annoyances of interruption which are interjected into speeches here for one reason and another, and which break up the continuity of argument and destroy the legitimate effect of any discussion upon a question so grave as the one now before the Senate.

I understand from the Senator from Iowa, the chairman of the Committee on Appropriations, that he has asked the Senate to meet to-morrow at 11 o'clock for the purpose of taking up an appropriation bill. I wish to ask that Senator if he will not make a request of the Senate now that at the conclusion of the morning business to-morrow this bill may be laid before the Senate so that I may make my remarks, which I will read, and therefore they will be within a short compass comparatively, and after that the Senator can proceed with his appropriation bill.

Mr. ALLISON. Mr. President, if that is the wish of the Senator from Alabama, of course I shall be glad to accede to it. I made the motion for the Senate to meet to-morrow at 11 o'clock in order that some time during the day I might have an opportunity of calling up the sundry civil appropriation bill.

Mr. MORGAN. If that is agreeable to the chairman of the committee, who reported the pending bill, or to the gentlemen in control of it, I hope the order will be taken.

Mr. LODGE. It is entirely agreeable to me.

Mr. MORGAN. I ask that an order may be taken that at the conclusion of the routine morning business to-morrow this bill may be laid before the Senate for the purpose of enabling me to complete my remarks.

Mr. ALLEN. The present bill?

Mr. MORGAN. The present bill.

Mr. ALLEN. I think that ought to be done.

Mr. TELLER. There will be no objection.

The PRESIDENT pro tempore. The Senator from Alabama asks unanimous consent that immediately after the routine morning business is completed to-morrow the unfinished business shall be laid before the Senate in order that he may address the Senate. Is there objection?

Mr. ALLISON. There ought to be, in addition to that, an understanding that after the Senator from Alabama has concluded his observations——

Mr. PETTIGREW. To that I can not consent. To that I object.

The PRESIDENT pro tempore. Does the Senator from Iowa make a request?

Mr. PETTIGREW. I am willing to consent that the Senator from Alabama shall go on at that time, but nothing further.

Mr. ALLISON. Very well; I will take my chances with the sense of the Senate on the appropriation bill to-morrow.

Mr. TELLER. I wish the Chair to put the request of the Senator from Alabama.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Alabama?

Mr. COCKRELL and others. No.

The PRESIDENT pro tempore. The Chair hears none. The order is made.

Mr. TELLER. I wish to say that to-morrow, when the Senator from Alabama is ready to proceed, I shall feel at liberty to object to any Senator interjecting any other business into the Senate.

Mr. LODGE. I will join the Senator in that.

Mr. TELLER. I give notice now so that no one may think I could be personal in making the objection.

Mr. ALLEN. Will that extend to all debates on this question? Mr. President, I hope it is not anticipated that when the Senator from Alabama concludes his remarks we are then to pass from this measure to something else.

EXECUTIVE SESSION.

Mr. SULLIVAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 6 o'clock and 3 minutes p. m.) the Senate adjourned until to-morrow, Friday, May 25, 1900, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate May 24, 1900.

APPOINTMENTS IN THE VOLUNTEER ARMY.

Thirty-third Infantry.

Sergt. Lamar G. Humphry, Company B, Thirty-third Infantry, United States Volunteers, to be second lieutenant, May 22, 1900, vice Pickel, promoted.

Forty-seventh Infantry.

Battalion Sergt. Maj. Starkey Y. Britt, Forty-seventh Infantry, United States Volunteers, to be second lieutenant, May 23, 1900, vice Jackson, deceased.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 24, 1900.

CONSUL.

John C. Freeman, of Wisconsin, to be consul of the United States at Copenhagen, Denmark.

CLAIMS COMMISSIONER.

William Glover Gage, of Michigan, to be the commissioner on the part of the United States under the conventions for a claims commission concluded between the United States and Chile, August 7, 1892, and May 24, 1897.

PROMOTIONS IN THE NAVY.

Lieut. (Junior Grade) Thomas J. Senn, to be a lieutenant in the Navy, from the 31st day of December, 1899.

Lieut. (Junior Grade) Jay H. Sypher, to be a lieutenant in the Navy, from the 11th day of January, 1900.

APPOINTMENT IN THE NAVY.

Charles Norman Fiske, a citizen of Massachusetts, to be an assistant surgeon in the Navy, from the 15th day of May, 1900.

REGISTER OF THE LAND OFFICE.

Lon E. Foote, of Arriba, Colo., to be register of the land office at Hugo, Colo.

POSTMASTERS.

Walter Price, to be postmaster at Westerly, in the county of Washington and State of Rhode Island.

E. S. Pierce, to be postmaster at Oxford, in the county of Lafayette and State of Mississippi.

Nannie B. Richardson, to be postmaster at Woodville, in the county of Wilkinson and State of Mississippi.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May 24, 1900.*

The House met at 11 o'clock a. m. Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

CIVIL GOVERNMENT OF ALASKA.

Mr. WARNER. I move that the House now resolve itself into Committee of the Whole on the state of the Union for the further consideration of the special order—Senate bill 3419.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. JENKINS in the chair, and resumed the consideration of the bill (S. 3419) making further provision for the civil government of Alaska, and for other purposes.

Mr. WARNER. Mr. Chairman, before entering upon the further consideration of this bill I desire to state, as all members know, that it is a long and very important bill, and it is in the interest of the public that we have it disposed of by the House as soon as possible, in order that other important legislation may be considered during this session, and to that end I serve notice that, while I desire to be accommodating and to give every member of the House as much time as he should have in fairness to the public interest, I shall endeavor to enforce the five-minute rule impartially, and shall object to any member's time being extended beyond the five minutes on any question, and shall also object to any member speaking more than once upon any question before the committee, my object being to get through with this bill as rapidly as possible.

Mr. OLMSTED. I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend by adding after the word "void," in line 23, page 25, the following: "And the Secretary of War shall have authority to grant permits general in character to citizens of the United States or persons who have legally declared their intention to become such to mine or dredge for gold or other precious metals below mean low tide, in such manner, however, that navigation shall not be obstructed."

Mr. OLMSTED. Mr. Chairman, on that wonderful beach at Cape Nome gold is found, as we all know, but there has been no adequate provision for the staking out of claims or the mining of the gold, particularly upon that portion of the beach which is covered with shallow water; therefore the Secretary of War has been issuing permits for that purpose under a provision of the act of 1899, which reads as follows:

It shall not be lawful to excavate or fill, or in any manner to alter or modify, the course, location, or condition or capacity of any port, roadstead, haven, harbor, canal, harbor of refuge, or inclosure within the limits of any breakwater, or the channel of any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of War prior to the beginning of the same.

Now, it was contended in the Senate that excavation for gold does not constitute such a "work" as was contemplated by the act of 1899; and the Senate adopted a provision repealing all permits which had been granted and making special provision for

mining from low-water mark inland. The House committee has changed that provision, adopting one which extends from low-water mark to the tundra or to the high-tide line where there is no tundra, but has left without any special provision that portion from low-water mark out to sea, where gold is also mined, it being the intention of the committee to leave it within the power of the Secretary of War to grant permits general in character for excavating or dredging for gold outward from the low-tide line.

The object of my amendment is to cure any possible defect or doubt as to the authority of the Secretary of War in the premises. If, as some contend, he has that authority now, my amendment does no harm; but if, as others contend and as the majority of the Senate seem to think, he has not the power now, my amendment cures that and gives him the authority. The amendment is acceptable, as I understand, to the chairman of the committee and to the gentleman from Iowa [Mr. LACEY], who had contemplated a somewhat similar amendment, and I hope that it may be adopted.

Mr. WARNER. Mr. Chairman, I will simply say that so far as I know the amendment is acceptable to the committee.

The amendment was agreed to.

Mr. CUSHMAN. Mr. Chairman, I offer the following amendment to section 26, which amendment I now send to the desk to be read.

The CHAIRMAN. The gentleman from Washington offers an amendment, which the Clerk will report.

The Clerk read as follows:

In section 26, line 15, page 25, immediately after the words "provided by law," insert the words:

"*Provided further*, That none of the provisions contained in this section shall be construed as vacating or in any way affecting the title to any mining claim which under existing law may have been legally located before the passage of this act, on any of the land or shoal water above the line of mean high tide."

Mr. CUSHMAN. Mr. Chairman, the object of offering this amendment——

Mr. WARNER. In order to save time, I will state that the committee are willing to accept that amendment.

Mr. LACEY. I should like to have an opportunity to examine the amendment.

Mr. McRAE. I should like to ask the gentleman who proposes this amendment if his purpose is practically to abolish the mining laws applicable to this country and permit the regulations to be completely under the control of the War Department.

Mr. WARNER. Oh, no.

Mr. CUSHMAN. The amendment which I offer has nothing to do with the mining from low water out to sea, which is the only portion that is left under the control of the War Department. The amendment which I offered simply has reference to the locations from the line of low tide back up and inland.

Mr. McRAE. Do you leave it with the miners?

Mr. CUSHMAN. Yes.

Mr. McRAE. Then why not leave it under the general law? Is not that the law now?

Mr. CUSHMAN. This bill provides that all of the land and shoal water from the line of low tide back to the tundra shall be under the control of the miners' meetings, or regulations established by the miners. Now, I will explain this by the map which hangs in front of the desk.

Mr. LACEY. I move the following amendment to the amendment.

Mr. CUSHMAN. I understand I still have the floor.

The CHAIRMAN. The Chair understood the gentleman to yield the floor, and the gentleman from Iowa was recognized.

Mr. CUSHMAN. No; the gentleman did not yield the floor, Mr. Chairman. I simply came forward to the desk to make an explanation by the map.

The CHAIRMAN. The Chair did not understand. At the end of five minutes the gentleman from Washington can be recognized.

Mr. LACEY. Go ahead.

Mr. CUSHMAN. What I desired to say was that under this proposed act all of the land between low tide and the tundra is left under the control of the miners.

Mr. McRAE. What is the tundra?

Mr. CUSHMAN. The tundra is a well-defined line, as shown here on this map, where the line of vegetation is, and the line where the tide reaches when the storm tides are the highest; but that line of the tundra is a considerable distance above the line of ordinary high tide. Now, the object of this amendment which I have offered is simply to show that where under the present law a claim has already been legally located by anyone extending from back of the tundra down to the line of high tide (the line of high tide being the farthest limit that a legal location may be made under the present law), it is not the intention of this bill to take away from such man any of his rights which may have legally attached prior to the passage of this act. That is, when we say that under the miners' regulations a man can locate a mine anywhere from low tide to the tundra, that means he can run the line of his claim from low tide back here till he reaches the line of a prior legal location which may run down to the line of mean high tide. On the other hand, off here on a section like this [indicating on the map], where there is no mine legally located on the strip between high tide and the tundra, there a man can run his claim clear back from low tide to the tundra. The object of my amendment is to show that we have no intention to interfere with present legally located mines.

Mr. MONDELL. Does the gentleman from Washington intend to legalize entries made below ordinary high tide?

Mr. CUSHMAN. Below high tide?

Mr. MONDELL. Yes.

Mr. CUSHMAN. No, sir. The amendment says——

Mr. MONDELL. The intent is, as I understand it, simply to remove all question as to whether this legislation shall interfere with claims heretofore legally located.

Mr. CUSHMAN. Certainly. My amendment reads:

Provided further, That none of the provisions contained in this section shall be construed as vacating or in any way affecting the title to any mining claim which under existing law may have been legally located before the passage of this act on any of the lands or shoal water above the line of mean high tide.

Mr. McRAE. Now, that expression "legally located" might mean claims that have been permitted to be located by an Executive Department under some change of the law, or it might as well mean those that have been located by the miners' association and under the regulations of the local miners.

Mr. CUSHMAN. It means those that have been located under the present existing law.

Mr. McRAE. The amendment does not say which.

Mr. CUSHMAN. It does not make any difference which.

Mr. TERRY. If claims have been located where they ought not to be located, does not this amendment cure the defective title?

Mr. CUSHMAN. No, sir; because this amendment says "any claim which may have been legally located."

Mr. GAINES. Claims which have been legally located ought not to be interfered with now by anything we do.

Mr. CUSHMAN. It is not the intention that they should be.

Mr. OLMSTED. In the latest Government publication on the subject we are told that the United States military commandant at Cape Nome limited a strip 60 feet wide between high tide and the tundra upon which he would not permit anybody to stake out claims, but permitted mining in common. Would your amendment conflict with that?

Mr. CUSHMAN. This proposed amendment does not in any wise affect the so-called 60-foot roadway. The provision of the bill in its present form says:

And the reservation of a roadway 60 feet wide, under the tenth section of the act of May 14, 1898, entitled "An act extending the homestead laws and providing for right of way for railroads in the district of Alaska, and for other purposes," shall not apply to mineral lands or town sites.

[Here the hammer fell.]

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. LACEY. I offer an amendment to the amendment.

The CHAIRMAN. The gentleman from Iowa offers an amendment to the amendment, which the Clerk will report.

The Clerk read as follows:

Amend the amendment by adding also: "*Provided*, That nothing herein shall be construed as validating, invalidating, or otherwise affecting mineral locations heretofore made in said 60-foot reservation or roadway."

Mr. OLMSTED. That is all right.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. MONDELL. I offer the following substitute for section 26.

The CHAIRMAN. The gentleman from Wyoming offers the following substitute, which the Clerk will report.

The Clerk read as follows:

SEC. 26. The provisions of the tenth section of the act of May 14, 1898, entitled "An act extending the homestead laws and providing for right of way for railroads in the district of Alaska, and for other purposes," relative to the reservation of a roadway 60 feet wide, shall not be held or construed to reserve any lands from location or entry under the mining or town-site laws of the United States. Legal and bona fide locators and owners of mining claims along the shores of the Bering Sea and the bays and inlets thereof shall have the right to extract gold and other precious mineral from the beach between high and low tide abutting their claims: *Provided*, That in extracting such precious minerals they shall not interfere with navigation. All citizens of the United States and those who have declared their intention to become such shall have the right to dredge and excavate below low tide in the waters along the shores of the Bering Sea, its bays, and inlets, for the purpose of extracting gold and other precious minerals therefrom under such reasonable rules and regulations to prevent interference with navigation as may be prescribed by the Secretary of War; but no exclusive right or permit shall be granted, and all permits to dredge and excavate in the above waters which may have heretofore been granted shall be construed in accordance with the provisions of this act. No claim which may be hereafter located under the placer-mining laws of the United States along the shores of Bering Sea, its bays and inlets, between ordinary high tide and the tundra shall extend farther inland than the line of the tundra or exceed 200 feet in width along the shore line, and a distance of at least 1 mile along the shore line shall intervene between any two claims located by the same person.

Mr. MONDELL. Mr. Chairman, I think section 26 as it now stands and as it has been amended is about as bad as it can possibly be. It was bad enough before the bill was amended by the

committee, and, with all due deference to the committee, in my opinion it is infinitely worse as presented to the House and as amended on the floor. The section is in every way confusing. The substitute which I offer, with the exception of the last proviso, limiting the size of certain claims, does not perhaps affect the intent of the section as it now stands, except as it in my opinion makes the subject very much clearer.

In the first place, section 26 as it now stands purports to extend the mining laws to Alaska, when, as a matter of fact, they were extended to that Territory sixteen years ago, and it would be unwise, in my opinion, to raise a question as to that fact by a provision purporting to extend them at this time. Further than that, there is a provision here which seems to give the miners authority to control locations and claims between ordinary high tide and the tundra. As a matter of fact, the miners and miners' meetings, under the mining laws of the United States, now control the entire region. They have full authority under the laws as they now stand to make all proper rules and regulations not inconsistent with the mining laws. Therefore they have to-day full control of this subject, and it simply beclouds the situation by special enactment to say that they shall control certain specific territory when they have absolute control of all the territory. It raises a question as to whether the miners have control, under the laws of the United States, over all mineral territory in Alaska, and that matter should be cleared up.

Mr. OLMSTED. Mr. Chairman, it strikes me that if there is any beclouding of this matter it will result from the adoption of the substitute offered by the gentleman from Wyoming. This matter has been most carefully considered by the Senate. This very section was the subject of more than four weeks' discussion in the Senate. The propositions finally adopted in the Senate have been carefully considered by the House Committees on Territories and on Revision of the Laws, and further amended on the floor. Now, let me show, Mr. Chairman, that if the amendment offered by the gentleman from Wyoming is adopted it would further confuse this matter.

Mr. MONDELL. The gentleman says that this matter was carefully considered in the Senate, and then further says that it was carefully considered by the House. I want to call the gentleman's attention to the fact that the amendment made by the House committee absolutely reverses the provision put upon the bill in the Senate.

Mr. OLMSTED. Mr. Chairman, I can not yield to the gentleman.

The CHAIRMAN. The Chair has recognized the gentleman from Pennsylvania on the assumption that the gentleman from Wyoming had yielded the floor, and his time had expired.

Mr. MONDELL. I hope, Mr. Chairman, that the House will yield me five minutes in order that this substitute may be properly explained.

The CHAIRMAN. To avoid confusion, the Chair has recognized the gentleman from Pennsylvania, and the gentleman from Pennsylvania was addressing the committee. At the expiration of the time of the gentleman the Chair will recognize the gentleman from Wyoming to ask unanimous consent to address the committee for five minutes.

Mr. MONDELL. I did not understand that my time had expired.

Mr. OLMSTED. As I was saying, the amendment would confuse matters. It provides for mining locations between high tide and the tundra. On this map, which has been placed here for our information, the tundra line is clearly defined. But that is only at Cape Nome; that tundra extends only 20 miles along the coast. But at Cape Prince of Wales and Cape York, a hundred miles from there, where gold is also found, there is no tundra. The bill as amended by the committee provides against any contingencies and against every objection that can be suggested. The substitute of the gentleman from Wyoming throws the whole matter again into confusion, and would require endless discussion and debate and amendment before his substitute could be made as desirable as the present section as already amended by the committee; and I hope, therefore, that the substitute will be voted down.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent that he be allowed five minutes to explain his amendment. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. Mr. Chairman, my amendment was intended simply to clear up the situation. In the first place, my substitute provides, not as the present section does, that the right of way provided for by the act of 1888 shall not operate to prevent locations under the mining laws. I think it is a very much better provision than the one in the section as it now stands, because it does not repeal that act as regards certain tracts along there and leave the act operative as to certain tracts, but leaves it in full force, and does not prevent the location of mining claims. The second paragraph is intended to clear up the provision regarding dredging for gold below low tide, giving every citizen of the United States the right to go in there and dredge and extract gold under such proper rules and regulations as the Secretary of War may prescribe to prevent interference with navigation. The further provision is as to locators and bona fide owners of claims above high tide, allowing them to extract gold from the beach between high and low tide abutting their claims.

There is only one provision which is new matter, and that is the provision limiting the size of the claims located between high tide and the tundra line of the Alaska beach. Now, gentlemen all know that under the present mining laws 20-acre placer claims have been located along this rich beach. It is a poor man's diggings. Last year a great number of miners who went in there took possession of the beach in spite of the fact that the beach had been located under the placer laws; but we know that the owners of these claims are not going to allow others to mine these claims forever. In order that the great number of people going into the Cape Nome district this year may be provided for, and in order that each and every one of them may have a small claim along the beach which has not been located up to this time, my substitute provides that the claims along the beach which shall be located in the future shall be limited in size to 200 feet along the shore line and extend from high tide to the tundra.

I wish to call the attention of the committee to the fact that this House has passed a bill containing practically that provision. I am simply putting into this section a provision which the House has already passed upon, a provision which will assure a small mining claim, a grub stake, to every man who goes into the district. This substitute is, in my opinion, a highly important matter, and clears up the ambiguity of the section as it now stands by reason of the amendments of the provision made by the Senate.

Mr. McRAE. If your substitute is adopted with the limitation upon the area, will it then leave the whole matter in the hands of the miners?

Mr. MONDELL. It does. The present mining laws leaves the whole matter in the hands of the miners.

Mr. McRAE. It does not as to this roadway. I want it left to the miners. I do not think roadways ought to stand in the way of mines.

Mr. MONDELL. My provision absolutely leaves it with the miners, and provides that so far as this roadway provision is concerned it shall not operate to prevent the location under the mining law.

Mr. LACEY. Mr. Chairman, I move to strike out the last word. I agree with my friend from Wyoming in the main as to the purpose he has in view, but we must take into consideration the history of this legislation. Here is a section that the Senate spent several weeks upon, and the committee have attempted only to change it in the essential thing that they disagreed with the Senate upon, without attempting to handle the verbiage of the bill at all.

Mr. MONDELL. Will the gentleman allow me to call his attention to the fact that the very first paragraph in the section of the bill as it passed the Senate refers to the waters below low tide, and the House amendment refers to land between high tide and the tundra?

Mr. LACEY. We have been all over that time and again, and it is not necessary that the gentleman should take my time to refer to that. The language left by the committee is the Senate language as far as practicable. It has been the policy of the committee to try and avoid a change of language except where there is an absolute disagreement with the Senate.

Let me call attention to two things in which my friend's substitute would not accomplish what he wants. The amended section 26, as it now reads, only opens up this territory under rules and regulations to be established by the miners. This shore could not under section 26 as we now have it be open until the miners shall first fix the size of the claim. Under the proposition made by my friend from Wyoming, they can go in and take 200-foot claims in anticipation of the action of the miner, so I think the section as now amended is safer for the miners than the substitute offered by the gentleman from Wyoming.

Now, it is true that the language of this section might be better drawn, but we must recognize that this has all been fought over and agreed upon, and with the changes I believe it is safer to leave it as it is.

There is another difficulty about the gentleman's proposition. The amendment offered by the gentleman from Pennsylvania is a vital one. It provides that permits given by the Secretary of War shall be "general in their character." The substitute authorizes permits, but not general in character. It authorizes John Smith to get a permit, and provides that it shall not exclude John Brown. The provision offered by the gentleman from Pennsylvania is that there shall be no permit given to John Smith or John Brown, but that the permit, if a part of the shore, shall be general in its character to all the world, and one permit will cover the whole matter instead of giving separate permits to individuals. I think the substitute does not accomplish as good results as the original amendment.

Mr. MONDELL. I am sure the gentleman does not want to misquote my substitute.

Mr. LACEY. Certainly not.

Mr. MONDELL. My substitute provides——

Mr. LACEY. I have just read it.

Mr. MONDELL. It provides that any one can go in there freely and mine——

Mr. LACEY. No; it provides that, although mining may be done under the authority of the Secretary of War, his permit shall not be exclusive; and the general law as contained in the act of 1899 as to navigable waters requires that the Secretary of War, under authority of the Chief of Engineers, shall grant permits; and acting under that authority he has been granting permits to applicants. He says he will grant them to all who apply. Now, what we desire is a general provision which will be an improvement upon the existing law.

Mr. WARNER. Mr. Chairman, the most material change which has been made in this section by the House committee is in taking from under the control of the miners the mining below low tide; and if there should be a disagreement with the Senate on this subject, the matter will be considered in conference when the conferees are appointed.

I wish to call the attention of the House to the fact that this bill was sent to us after thorough consideration by the Committee on Territories of the Senate and after thorough discussion in the Senate; and we have the benefit of the knowledge of such men as Senators CARTER and SHOUP and STEWART of that body. Their knowledge of the mining laws and of what is best for that country is, I believe, as good as that of almost any man in this House.

The gentleman from Wyoming has introduced a substitute. I venture to say there are not two men on this floor who know what his substitute means; and it would be unsafe to adopt it under any circumstances without a fuller knowledge of it. Therefore I am of opinion the substitute should be voted down and the section as amended by the House committee adopted.

Mr. MONDELL. The gentleman says that in the Senate committee and on the floor of the Senate this bill was very carefully gone over by mining experts, such as certain Senators whom he has named. I wish to ask the gentlemen this question: If the House committee believe that those gentlemen are qualified to pass upon these matters, why has that committee changed vitally and essentially the provision adopted in the Senate and applied to high and dry land a provision which the Senate applied to deep water?

Mr. WARNER. They made that provision because they were of opinion that it would be better not to allow the miners (who can not mine under water at all but only on the sands above the water, with spade and pan)—it was thought better not to allow them to control the mining below low tide where there would be required costly outfits, machinery, etc. It was thought that capital invested in that kind of mining should not be subject to the will and caprice of men who can not possibly do that kind of mining.

Mr. MONDELL. I agree with the gentleman fully on that point; but I would like to hear some explanation as to why it was deemed advisable or necessary to make provision relative to the control by miners and miners' meetings of lands between high tide and the tundra, when under the mining laws of the United States miners and miners' meetings control all the mineral lands of Alaska as well as elsewhere in the United States.

Mr. WARNER. The Senators I have mentioned seem to differ with the gentleman as to the law; but if the law is as he states it, this bill does no harm. The gentlemen from Alaska who appeared before our committee thought it would be more satisfactory and could conduce better to peace and quiet among the miners of that country, if this bill should give them exclusive jurisdiction over the mining property between tundra and low tide. That is their exclusive jurisdiction under this bill, subject to the general laws of the United States. We have adopted this provision in order that they may be satisfied with having the mining below low tide taken away from them.

Mr. MONDELL. Does the gentleman wish the House to understand that by this provision the miners in Alaska are given some authority over the lands between high tide and the tundra which they do not have over other mineral lines?

Mr. WARNER. No, sir.

Mr. MONDELL. Then why have the committee framed the provision as it is?

Mr. WARNER. As I understand, the miners now have control of all lands above high tide; the miners and miners' meetings can control it, can make rules and regulations in regard to it. Because this bill moves the line up to the tundra, it does not affect them injuriously. Reenacting a law already in existence does not do any harm; it is only the repeal that can be injurious to existing rights.

Mr. OLMSTED. Allow me to suggest that while under the present regulations the miners and miners' meetings controlling this 60-foot strip above high tide are working almost shoulder to shoulder, peacefully and harmoniously, the gentleman's substitute would give each one 200 feet and would throw the whole matter into interminable confusion.

Mr. MONDELL. Allow me——

Mr. WARNER. I ask for a vote.

The CHAIRMAN. The time of the gentleman has expired. The question is on agreeing to the substitute offered by the gentleman from Wyoming [Mr. MONDELL].

The question being taken, the substitute offered by Mr. MONDELL was rejected.

Mr. GAINES. I should like to ask the gentleman from Illinois [Mr. WARNER] a question. I did not catch the run of the debate just now. I understand that the section just passed touches the disposition of the tide land in Alaska, which, under the law, must be "held in trust for the future State," as the court held in Shively *vs.* Bowlby.

Mr. WARNER. We just passed that question.

Mr. GAINES. But was that the question before the House? I have just returned to the Hall.

Mr. WARNER. I will state to the gentleman from Tennessee that we have adopted amendments to section 26, and the question is now on the adoption of the section as amended.

Mr. GAINES. I thank the gentleman for answering my question. I was out of the Hall at the time the section was being considered.

The CHAIRMAN. The question is upon agreeing to the section as amended.

The section as amended was agreed to.

Mr. JONES of Washington. Mr. Chairman, I ask unanimous consent to recur to paragraph 5, on page 22.

The CHAIRMAN. The gentleman from Washington asks unanimous consent to recur to the paragraph on page 22.

Mr. JONES of Washington. And I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

In line 22, page 22, after the word "district," insert the words "date of expiration of his commission."

After the word "name," in line 24, on page 22, insert the following: "And after each official signature the notary shall add his post-office address."

Mr. JONES of Washington. Mr. Chairman, these amendments simply require the notarial seal to show the date of expiration of the notary's commission, and that the post-office address of the notary shall be added after his official signature.

Mr. WARNER. Mr. Chairman, I think that amendment is unwise, for the reason that notaries hold their commissions term after term, and they would have to get a new seal every time they are recommissioned if that amendment was adopted. I do not understand that it is necessary. We have changed this section from having a seal containing the words "notarial seal" to the words "notary public" solely for the purpose of allowing notaries who are now there who are reappointed to use their old seals, which have on them the words "notary public." It is entirely unnecessary to have this.

Mr. GAINES. I will state to the gentleman from Illinois [Mr. WARNER] and to the gentleman from Washington [Mr. JONES]——

Mr. JONES of Washington. I have not yielded the floor, but I will yield for a question.

Mr. GAINES. I understand the gentleman from Illinois [Mr. WARNER] has the floor.

The CHAIRMAN. The gentleman from Washington was recognized, and his time has not yet expired.

Mr. JONES of Washington. The State of Washington requires this provision. It does not require the manufacture of a new seal. It is very easy to change the date on a seal without the manufacture of a new seal. All that would need to be done would be to send the seal to the manufacturer and he can put the required date upon the seal. In a great many States you will find that the notary, when taking an acknowledgment, writes the date of the expiration of his commission. In many instances the date of the expiration is a very important matter. If the seal shows the date of the expiration, it is notice to the world outside that when the notary made that impression he was still authorized to make it. There could then be no question about it.

It seems to me that this is a very good and reasonable amendment. The other amendment requiring him to attach his post-office address is, it seems to me, another good amendment. I have had considerable experience in examining titles, and I have frequently desired to write to the notary public relative to instruments acknowledged by him, but frequently there was nothing in the instrument showing his post-office address. It is a very little thing for him to add his post-office address, and it notifies anybody who desires to ask him anything about the instrument or acknowledgment where to write to him. It seems to me that it is a very good amendment; that there can be no reasonable objection to it, and that it should be adopted.

Mr. GAINES. Mr. Chairman, I should like to state to the

gentleman from Illinois [Mr. WARNER] and to the gentleman from Washington [Mr. JONES] that this amendment is a very practical one, and it seems to me that it imposes no hardship upon the officials. We have this provision in our State. I do not know whether it is a requirement of law, but I do know that in the banks, and a great many of the other notaries, are required to put the date of their appointment and the date of the expiration of their commissions on their seal. Suppose you are to take an acknowledgment in Alaska, and you want to send it down to the United States. It takes months and months to get it back, and possibly you may send some amendment or change that is to be inserted, and before it gets back to the notary his commission has expired. That causes delays which this would avoid. In fact, the resignation of the Federal judge up there in Alaska I alluded to two days ago had been accepted by the President before he knew it. He had agreed to hold court at a certain place in Alaska, but when he got there he found that his resignation had been accepted. He was no longer a judge; yet he had promised to hold court after he was in law and fact an ex-judge.

Now, this is entirely a matter of precaution and good policy, because away yonder in Alaska, when an acknowledgment is taken and the papers are sent here, we do not know whether the notary is still acting or not. If the expiration of his commission is put upon the seal, it is very easy to find out, and the additional precaution of requiring him to put his post-office address after his signature is also a good one. This would apply, it seems to me, with peculiar force and propriety in Alaska, that is thousands of miles away, where different cities there are thousands of miles apart. I believe it was stated here the other day that the judge held court in cities 2,000 miles apart. Twenty-four thousand of those people are savages or semicivilized, and other people are floating around exploring the country, and everybody would be very much accommodated and nobody hurt by these precautions. The expense to the notary public would be very small, and the convenience to everybody concerned would be very great.

The CHAIRMAN. The question is upon agreeing to the amendment proposed by the gentleman from Washington.

Mr. JONES of Washington. I ask for a separate vote on each of the two amendments.

The CHAIRMAN. The gentleman from Washington asks a separate vote. The Clerk will report the first amendment.

The Clerk read as follows:

After the word "district," in line 22, page 22, insert the words "date of expiration of his commission."

The amendment was rejected.

The Clerk read as follows:

After the word "name," in line 24, page 22, insert the following:
"And after each official signature the notary shall add his post-office address."

The question being taken, on a division (demanded by Mr. JONES of Washington), there were—ayes 29, noes 30.

Accordingly the amendment was rejected.

The Clerk read as follows:

SEC. 27. The Indians or persons conducting schools or missions in the district shall not be disturbed in the possession of any lands actually in their use or occupation, and the land, at any station not exceeding 640 acres, now occupied as missionary stations among the Indian tribes in the section, with the improvements thereon erected by or for such societies, shall be continued in the occupancy of the several religious societies to which the missionary stations respectively belong, and the Secretary of the Interior is hereby directed to have such lands surveyed in compact form as nearly as practicable and patents issued for the same to the several societies to which they belong; but nothing contained in this act shall be construed to put in force in the district the general land laws of the United States.

Mr. BELL. I wish to offer an amendment to that.

The CHAIRMAN. The gentleman from Colorado offers an amendment, which the Clerk will report.

The Clerk read as follows:

Substitute "two" for "six" in line 4, page 25, section 27.

Mr. BELL. I simply introduce this amendment to substitute 240 acres instead of 640 acres, that the general question may be inquired into. I suppose this subject has been considered, but I want to make just a suggestion or two. If that were in the State of Kansas or Nebraska, or any level country, it would make no difference; 640 acres would be all right. But if you take 640 acres in the Rocky Mountains, or any other mountainous country, in numerous places you would take a piece of ground that would be worth millions of dollars. If you were to go to Lake City, Colo., and take 640 acres there, you would take the only level ground in an area of many miles.

If you were to go to Silverton, Colo., and take 640 acres, where two streams come together, there would not be left an acre of level ground, and that organization could get land that they could use for town purposes, worth many millions of dollars. If they should go to Central City, or to Georgetown, or to Silver Plume, or hundreds of places in the Rocky Mountains, where these great mining regions are or where the coal regions are, 640 acres would cover every acre of level ground, where the town would naturally be located. Now, I have an idea that it is largely the same way in Alaska. Take two streams coming together, there is a little delta of from two to five hundred acres of level ground, and the mighty mountains cover all the rest, so that 640 acres in many places would more than cover all the available level territory.

If there is in existence many of these mission societies, they would have the natural town sites throughout Alaska. They would have the level spots, the beautiful places, that would be worth millions of dollars. Now, I simply make that suggestion. I do not care anything particular about the amendment; but I want to say if such a thing existed in Colorado or Wyoming or in Utah, in the mountain regions, you would generally take the places where the great mining towns are to-day, and there would be no level ground left. You could make a town site which would be worth millions of dollars.

Mr. WARNER. This provision simply provides that the Indians or persons conducting schools or missions in this district shall not be disturbed in the possession of any lands actually in their use or occupation and the land at any station, not exceeding 640 acres. In other words, this section will not permit them to be robbed of what they now have; and I think that is only right, whether they have in their occupation and use 10 acres or 640 acres. They are there, they have it, they have had it, and they have been using it and occupying it, and we should not attempt to rob them by this legislation. That section is all right, and we ought to let it stay as it is.

Mr. RIDGELY. Will the gentleman yield to me for a question?

Mr. WARNER. Certainly.

Mr. RIDGELY. Does not the section as it stands permit other rights to be established?

Mr. WARNER. Oh, no; not as I understand it. It reads:

The Indians or persons conducting schools or missions in the district shall not be disturbed in the possession of any lands actually in their use or occupation.

That goes into effect as soon as it is passed, and it is in the present tense. It states "what they now have," not such as they may hereafter take, but that which they have, as I understand the meaning of the section.

Mr. RIDGELY. Would the gentleman object to the addition of such language as would make it absolutely clear?

Mr. WARNER. Not at all.

Mr. BELL. It seems to me it would depend upon what you call occupation—whether that is constructive or actual possession.

Mr. WARNER. Well, when it says "actually in their use or occupation" it means actual use. It does not mean paper occupation. They have no such thing as a deed. It is all actual occupancy. Now, where these missionary societies have occupied the lands and used them and cultivated them, I think it would be wrong and unjust to take a single acre from them.

Mr. BELL. I should not for one be willing to take land from them.

Mr. RIDGELY. I will ask the gentleman to permit the word "now" to be inserted after the word "lands," in line 3.

Mr. WARNER. Now listen just a little further:

The Indians or persons conducting schools or missions in the district shall not be disturbed in the possession of any lands actually in their use or occupation, and the land in any station not exceeding 640 acres, now—

Now—

occupied as missionary stations among the Indian tribes in the section.

I do not think that it needs any amendment, from the reading of the language which I have quoted.

Mr. RIDGELY. I would ask the Chairman that the word "now" be inserted.

Mr. WARNER. I move to amend section 27, in line 3, after the word "lands," by inserting the word "now." I am perfectly willing that amendment should be inserted.

The Clerk read as follows:

In section 27, line 3, after the word "lands," insert the word "now."

Mr. BELL. I withdraw my amendment.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

SEC. 29. An act entitled "An act to define and punish crimes in the district of Alaska, and to provide a code of criminal procedure for the district," approved March 3, 1899, be, and is, amended, by adding to section 363 thereof the following: "*Provided*, Section 15 of an act entitled 'An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes,' approved June 18, 1878, shall not be construed to apply to the district of Alaska:" *Provided further*, That section 460, chapter 44, title 2, be amended to read as follows:

The amendment of the committee was read, as follows:

In section 29, line 13, after the word "two," insert the words "of said first-mentioned act."

The amendment was agreed to.

The Clerk read as follows:

"SEC. 460. That any person or persons, corporation, or company prosecuting or attempting to prosecute any of the following lines of business within the district of Alaska shall first apply for and obtain license so to do from a district court or a subdivision thereof in said district, and pay for said license for the respective lines of business and trade as follows, to wit:

"Abstract offices, $50 per annum.

"Banks, $250 per annum.

"Boarding houses having accommodations for ten or more guests, $15 per annum.
"Brokers (money, bill, note, and stock), $100 per annum.
"Billiard rooms, $15 per table per annum.
"Bowling alleys, $15 per annum.
"Breweries, $500 per annum.
"Bottling works, $200 per annum.
"Cigar manufacturers, $25 per annum.
"Cigar stores or stands, $15 per annum.
"Drug stores, $50 per annum.
"Public docks, wharves, and warehouses, 10 cents per ton on freight handled or stored.
"Electric-light plants, furnishing light or power for sale, $300 per annum.
"Fisheries: Salmon canneries, 4 cents per case; salmon salteries, 10 cents per barrel; fish-oil works, 10 cents per barrel; fertilizer works, 20 cents per ton.

Mr. KAHN. Mr. Chairman, I desire to offer the following amendment.

The Clerk read as follows:

On page 27, line 28, strike out the word "four" and insert the word "two;" so that it will read, "2 cents per case."

The CHAIRMAN. The question is on the amendment.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KAHN. Division, Mr. Chairman!

The committee divided; and there were—ayes 11, noes 19.

So the amendment was rejected.

Mr. LOUD. Mr. Chairman, I move to amend the section by striking out the word "four" and inserting "three."

The Clerk read as follows:

In line 28, page 27, strike out the word "four" and insert the word "three;" so that it will read "salmon canneries, 3 cents per case."

Mr. LOUD. Mr. Chairman, I think if my colleague had been permitted to explain his amendment to the House, that the amendment would have been adopted. It seemed to me there was a little haste used; in fact, both gentlemen were seeking to address the Chair when the question was put, both the chairman of the committee and my colleague.

The canners, who reside to a great extent in California, Oregon, and Washington, are perfectly willing to pay the same taxes for doing business in Alaska that any other persons doing business are taxed. I want to call the attention of the House to your rate of taxes upon mercantile establishments, and you will find that the rate of 4 cents per case on salmon is double the rate of tax that you have imposed upon mercantile business. It is on page 28: "Mercantile establishments doing a business of $100,000 per annum, $500 per annum." The business they may do over that is not taxed.

Mr. GREEN of Pennsylvania. You protect the salmon themselves, and it costs money to properly propagate them.

Mr. LOUD. I do not understand what the gentleman means.

Mr. PAYNE. How much is a case of salmon worth that is taxed 4 cents?

Mr. LOUD. Four dollars, or perhaps four dollars and a half. This tax would yield something like $40,000. I say to you in perfect good faith that this is a higher rate of taxation than is placed upon anything else. I was struck by the remarks of the gentleman from New York when some one referred to this as a system of taxation, and the gentleman from New York said he could not see any system in it whatever.

I might point to this provision to tax quartz mills $3 a stamp. A stamp is worth at least $1,000 put up in the State of California, and probably it is worth $1,200 or $1,500 put up in Alaska. If you propose to tax it on the value of the property, you will see what a small tax you propose to impose. If you propose to tax it on the output, the output may be nothing and it may be thousands of dollars.

I want to say to the House that when the Secretary of the Treasury submitted to Congress the proper rate of taxation on salmon he placed it at 2 cents per case.

Mr. KAHN. Will the gentleman from California allow me a suggestion?

Mr. LOUD. Certainly.

Mr. KAHN. Is not it a fact that no salmon canneries in the United States pay any taxes whatever of this sort?

Mr. LOUD. That is true.

Mr. PAYNE. But they pay State taxes in Washington and Oregon?

Mr. LOUD. They pay a tax in Oregon on their property, and if these canneries in Alaska were taxed 2 cents per case it would amount to about 1½ per cent on the investment.

Mr. WARNER. Is it not true that in Oregon they are taxed on the fish they take from the stream?

Mr. LOUD. I have heard that statement before, and that expresses the wisdom of the committee. No, it is not a fact; that law was repealed some years ago.

Mr. KAHN. It was repealed October 8, 1898.

Mr. WARNER. It is in the last revision of the Oregon laws that a tax is imposed upon the fish caught, in addition to the tax on the property.

Mr. LOUD. If the law was repealed in 1898, the gentleman would have no revision of it. I want to say that we are perfectly willing to be taxed to the same extent as any other industries in Alaska. The canning of salmon is the canning of a food product. I do not see why you should tax it any higher than any other industry.

Mr. TOMPKINS. Mr. Chairman, this matter was fully presented to the committee. The canneries were represented by an attorney who presented the matter, and the committee was unanimously of the opinion that this tax of 4 cents per case was not excessive. It was conceded by the representative of the canneries that the product produces four or four and a half dollars per case. One of these cases to be taxed 4 cents brings in four dollars or four dollars and a half.

Now, the comparison which has been made between the mercantile business and this industry is not a fair or reasonable comparison, because the profits of the cannery business are concededly very much larger than the profits of ordinary mercantile business.

Mr. PAYNE. I would like to ask the gentleman a question.

Mr. TOMPKINS. Certainly.

Mr. PAYNE. Did the committee ascertain what taxation the canneries in Washington and Oregon had to pay? I suppose they are assessed on the valuation.

Mr. TOMPKINS. It was said that they were taxed there, but there was no claim made by the representatives of the canneries that they were taxed any less in these States than the proposed tax by this bill.

Mr. PAYNE. The gentleman from California [Mr. LOUD] says the taxation of 2 cents per case would be equivalent to one and a half per cent on the investment. Has the committee any information as to what percentage Oregon and Washington imposes upon the present investment?

Mr. TOMPKINS. I have no such information, and I know the committee had none at the time of the hearing.

Mr. PAYNE. There ought to be no discrimination made against the canneries in Alaska. They should not be taxed any more in proportion than those in Washington and Oregon.

Mr. TOMPKINS. The claim has never been made until now, so far as members of the committee know, that this tax of 4 cents per case would exceed the tax paid in any of these States or Territories.

Mr. LOUD. It would amount to more than 3 per cent on the money invested.

Mr. S. A. DAVENPORT. The gentleman says the canneries were represented by an attorney before the committee.

Mr. TOMPKINS. They were.

Mr. S. A. DAVENPORT. Were they satisfied with the rate as fixed in the bill?

Mr. TOMPKINS. No; I can not say that. But the committee were unanimously of opinion that it should remain as fixed in the bill.

Mr. WARNER. Mr. Chairman, the peculiarity of this discussion, as of the discussion in the committee, is that not a single resident or citizen of Alaska has objected to this 4-cent tax. The objection comes from outsiders whose constituents are poaching on the waters of Alaska. They say it amounts to a 3 per cent tax on the property invested. That is the strongest argument in favor of the 4-cent tax. People go up to Alaska and put up temporary canning establishments, running a few boats, at little expense, and they take out of the waters of Alaska millions of dollars' worth of fish, while they pay not one cent of tax into the Treasury of the United States except what is obtained in this way. This law has been in force in Alaska one year. Instead of killing the fishing industry up there it has increased it. The canning factories have been increasing every day since the law went into operation, a year ago.

I read in a Minneapolis paper the other day that a company has recently been organized there, with a capital of $1,000,000, to go up to Alaska to catch and can fish under the provisions of this law imposing a tax of 4 cents a case; that is, 4 cents on 48 cans—one-twelfth of a cent per can. That is a small enough revenue to be paid into the Treasury of the United States for the privilege of taking fish out of those waters, and it will not deter a single man from going there and engaging in that industry. I think the amendment should be voted down and the section passed with the 4-cent tax.

Mr. KAHN rose.

The CHAIRMAN. Debate is exhausted on the amendment.

The question being taken, there were on a division (called for by Mr. KAHN) ayes 30, noes 43.

So the amendment was rejected.

The Clerk read as follows:

Freight and passenger transportation lines, propelled by mechanical power, registered in the district of Alaska, and not paying license or tax elsewhere, and river and lake steamers, as well as transportation lines doing business wholly within the district of Alaska, $1 per ton per annum on net tonnage, custom-house measurement, of each vessel.

The amendment reported by the committee was read, as follows:

Strike out in lines 42 to 45, page 28, the words "registered in the district of Alaska, and not paying license or tax elsewhere, and river and lake steamers, as well as transportation lines doing business wholly within the district of Alaska" and insert "on inland waters."

Mr. SLAYDEN. Mr. Chairman, I think I owe to the House an apology for venturing for a brief five minutes to speak about a matter not pertaining to this bill; but in justice to myself and my party I desire to correct a statement——

Mr. WARNER. I must object to anyone speaking on anything outside of this bill. We want to get the bill passed as speedily as possible.

Mr. LOUD. I want to be heard on the amendment.

The CHAIRMAN. Does the gentleman from Texas [Mr. SLAYDEN] desire to address the committee on the pending amendment?

Mr. SLAYDEN. I rise to a question of personal privilege.

The CHAIRMAN. The gentleman can not be recognized for that purpose unless it is upon some matter growing out of the proceedings of the committee.

Mr. SLAYDEN. Very frankly, I must admit that it has no reference to the bill.

Mr. LOUD. Mr. Chairman, I desire to contest the amendment reported by the committee to this paragraph. I do not suppose it possible to attract the attention of the House to what the committee has done here. I have no doubt the members of the committee are wise on maritime questions——

The CHAIRMAN. The Committee of the Whole will come to order so that the gentleman occupying the floor may be heard.

Mr. LOUD. I should like to be heard, because this is a matter of considerable importance to all the shipping interests of the country. I can not for one moment believe that the committee have grasped this question of maritime taxation.

The provision of the bill as passed by the Senate taxes vessels doing business in Alaskan waters and registered in Alaska, which is very proper, because they can not be taxed anywhere else. But the committee has changed that provision so that a ship may be taxed in any other part of the United States; and if it proposes to do business in Alaskan waters, it must be taxed in addition $1 a ton. I say to the chairman of the committee, in good faith, that I do not believe he has comprehended this system of taxation. If a ship is registered in the custom-house at San Francisco, that ship is assessed and taxed in the State and county of San Francisco. If it be registered (and it must be registered somewhere) in any other city of the United States, then, so far as I know—and I assume the case is the same generally—that ship must pay its taxation in the place where it is registered.

Now, when such a ship goes to Alaska to do business, you propose to tax it $1 a ton in addition. In other words, a ship of three or four thousand tons burden, if registered and paying taxes upon the value of the ship in any other place, must, if it proposes to go to Alaska, pay an additional tax of three or four thousand dollars in order to do business there. I am satisfied that if the House will give its attention, or if the committee will grasp this, it will not insist on this amendment that it proposed here to strike out the provision of the Senate.

Mr. JONES of Washington. I hope that the amendment prepared by the committee will be voted down. The House will notice that this bill now provides for the taxation of vessels doing business in the inland waters of Alaska. Nearly all of this business is done by vessels that are owned in other States. Almost all of the business in southeastern Alaska is done in inland waters. There is an inland channel all through the southeastern and southern coast of Alaska. The vessels going to Sitka, to Skagway, and to Juneau do not go out on the ocean. They all go by this inland passage, and almost all these vessels are owned by outside parties.

The Senate provided that vessels registered in Alaska should pay a tax there and, as the gentleman from California [Mr. LOUD] has said, that is proper; but the House provision is that every vessel doing business in these inland waters, no matter where it is registered, no matter whether it has paid a tax elsewhere or not, shall pay the tax provided in this bill. Therefore it provides for a system of double taxation, and that is what we protest against. It provides for $1 per ton per annum on the net tonnage of these vessels. In other words, a vessel of 4,000 tons will pay $4,000 license in Alaska, and it will pay a tax in the State of Washington or Oregon or California, wherever it is registered, upon its value as provided by its local laws there. It seems to me that this House in all fairness ought not to adopt such an amendment as that.

Mr. WARNER. Mr. Chairman, I suggest that the gentleman from California [Mr. LOUD] was in error when he said that this original bill provided that ships registered in Alaska should pay taxes in Alaska. This is the reading of it:

Freight and passenger transportation lines, propelled by mechanical power, registered in the district of Alaska, and not paying license or tax elsewhere.

And although the vessel should be registered in Alaska, yet if it paid a tax somewhere else, we could not get any tax out of that company or vessel for Alaska.

Mr. LOUD. It would not be proper to tax a vessel anywhere else if it were not registered. That is the basis of the assessable property—its registration.

Mr. WARNER. I know how this bill reads, and I know the difficulty we desire to remedy. It goes on further:

And river and lake steamers, as well as transportation lines doing business wholly within the district of Alaska, $1 per ton.

And so forth. The intention of the amendment was that all vessels, whether registered in Alaska or not, doing business on inland waters, should pay a tax in Alaska. Some gentleman here has said that all the shipping was done on inland waters in Alaska. That is certainly a mistake. We are informed that 25 ships are now loaded at San Francisco, Victoria, Seattle, and Tacoma for Nome and St. Michael, neither of which are upon inland waters. This only applies to vessels doing business on inland waters.

If they want to escape double taxation, all they have to do is to do what they should do, and that is, when they want to trade on inland waters in Alaska, to register their vessels in Alaska and submit to the tax law of Alaska, and not register their vessels in Honolulu, San Francisco, or New York, and then trade on the inland waters of Alaska. They should register them in Alaska and submit to the laws and pay the tax there, a tax that is used in protecting them, their property, and their trade. This only applies to vessels doing business on inland waters. They will escape double taxation if they will register there, as they should.

Mr. LOUD. Has it not always been the contention of this Government that even the whole of Bering Sea was an inland water?

Mr. WARNER. I am not familiar enough with that subject to put myself on record with regard to it.

Mr. LOUD. We have always contended that. We have always insisted in our contention with England that Bering Sea was an inland water.

Mr. WARNER. Then we had better change the name to Bering Inlet or Bering Bay.

Mr. KING. Will the gentleman from Illinois allow me to ask him a question?

Mr. WARNER. Certainly.

Mr. KING. Suppose a vessel is not registered in California or Oregon or Washington, and is doing business with Alaska. Have you any provision by which it may register in Alaska, and if it does, that it may be subject to taxation there?

Mr. WARNER. As amended this provides that all vessels doing business on the inland waters of Alaska, regardless of where they are registered, shall pay this tonnage tax, and if they want to escape a double taxation, let them register in Alaska and not register in San Francisco. Let them register in Alaska and pay to Alaska the revenue which they demand shall be used in the protection of their trade and property in these inland waters and not give it to some other State or Territory.

Mr. JONES of Washington. How much of this tax goes to Alaska?

Mr. KING. Suppose they are not registered at all and are seeking to escape taxation. Ought there not to be some provision that they shall register in Alaska, so that they may contribute something for the maintenance of the Government?

Mr. WARNER. That is not necessary, because this section as amended is even broader than that. Whether they are registered or not, if they do business on those inland waters they must pay this tax. The gentleman from Washington asks how this tax is applied. Half of it goes to the municipalities of Alaska and half of it goes into the Treasury of the United States.

Mr. JONES of Washington. That is what I say. Half of it goes to the United States.

Mr. WARNER. And the Treasury of the United States pays the running expenses of Alaska—pays for these three judges and for the government that we have established there.

The CHAIRMAN. Debate on this amendment is exhausted. The question is on agreeing to the amendment.

Mr. WARNER. This is a committee amendment.

The question being taken, on a division (demanded by Mr. WARNER) there were—ayes 67, noes 14.

Accordingly the amendment was agreed to.

The Clerk read as follows:

Meat markets, $15 per annum.

Mr. GAINES. Mr. Chairman, I notice that in this paragraph we undertake to charge a license of $15 per annum on meat markets. Over on the next page——

The CHAIRMAN. The Chair will state to the gentleman from Tennessee that there is no amendment pending to this paragraph.

Mr. GAINES. I move to strike out the paragraph.

Mr. WARNER. What is the motion?

The CHAIRMAN. The motion of the gentleman from Tennessee is to move to strike out line 68, on page 29.

Mr. GAINES. My motion is to strike out the paragraph providing for a license of $15 per annum on meat markets. Over on the next page we find hotels are charged $50 per annum, and on page 27 boarding houses having accommodations for ten or more guests are charged $15 per annum. On another page dealers in tobacco, who make large profits, are charged $15.

Now, that is a most remarkable proposition, Mr. Chairman, that we are to charge these concerns that are undertaking to feed 74,000 people in Alaska these license fees, and yet you charge the tobacconist $15. I say seriously to my friend from Illinois [Mr. WARNER] that it is a most remarkable species of legislation that we are charging a license to every industry that tends to keep the men and women of Alaska alive, and yet only a few months back the last Congress had to appropriate money here to send reindeer up there to do hauling, so hard is it for the people to get along and about. Now, a day or two ago, when I was addressing myself to the question of salaries, paying the governor up there $5,000, when he has heretofore been paid $3,000, my friend from Iowa [Mr. LACEY] interrupted me and said:

Mr. LACEY. Let me suggest to my friend that living at Sitka, living on fish and vegetables there, before the rush of gold seekers raised prices, the living was very cheap there then.

* * * * * * *

Mr. LACEY. Heretofore the cost of the necessaries of life up there has been much less than it now is, since so many people have gone up there and prices have risen.

In other words, it has become very dear now. I believe it was stated somewhere in the RECORD that a piece of beef costs $15 a pound. I want my distinguished gold-standard friends to remember that that country, where gold almost flows out of the earth like water, the price of living has grown so high that a piece of steak has risen in this gold country to $15 a pound, and, Mr. Chairman, we are taxing——

Mr. OLMSTED. Do you not think that a meat shop that can sell meat at $15 a pound can pay a tax of $15 a year?

Mr. GAINES. I say it is an outrage on humanity to charge the poor women who are keeping little boarding houses in that country $15 for a license to keep people from starving up there, when the Government of the United States has had to send money over there to keep them not only from freezing to death but from starving to death.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GAINES. Mr. Chairman, I would like to have two minutes more.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that his time may be extended two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. TONGUE. Will the gentleman allow me to ask him a question?

Mr. GAINES. I can not yield now. I want to make another observation here, and equally as serious as the one I made before. Here you are taxing everything on the face of the earth up there except ice, everything underneath the earth, everything in the water, and everything on the top of the water to carry on that government, and yet you dare not tax Porto Rico one cent, that has no ice, that has hot weather, that has rich ground, and valuable forests, and industrious people, to whom we promised the flag, the Constitution, and "the rights, privileges, and immunities of American citizenship," not only through General Miles but through our agents whom we sent to that country.

Mr. TONGUE. Mr. Chairman, just one moment in explanation of this provision of the bill. An important fact which the gentleman from Tennessee has overlooked is, that there is no assessor in the whole territory of Alaska. There is no assessment of property there.

Mr. GAINES. We make governors; can not we make the balance?

Mr. TONGUE (continuing). There has never been one since we have acquired Alaska until the passage of the present law. There never was a man there who paid taxes on any species of property that he had. There is a mine near Juneau that is running 800 stamp mills; it is the largest mine in the world, and until two years ago, notwithstanding that nearly every dollar of its mining product goes to Europe, it had not contributed a single cent to maintain order, to support justice, to educate a child, or to keep a policeman.

Mr. GAINES. Will my friend yield to me there?

Mr. TONGUE. No; not until I shall have concluded my statement.

Mr. GAINES. I yielded to you yesterday until you took up my five minutes. That is the unfair way in which you deal.

Mr. TONGUE. The people in Alaska have not contributed a single cent to maintain government; they will not contribute a single cent to maintain government except under this provision of this law. Now, I concede that the situation is not an ideal one. I concede that people ought to pay taxes on their property according to its value; but there is no machinery to assess them, or to ascertain what they are worth, so that two years ago, when this bill was passed, there was a provision made in the bill whereby they would pay something that was equitable. If a butcher has $1,500 invested in his business he would be only paying 1 per cent, while in some States people have to pay from 3 to 4 per cent taxes on their property.

Mr. GAINES. Did the gentleman ever see a boarding-house keeper that had that much money in property?

Mr. TONGUE. A boarding-house keeper has not to pay any taxes upon furniture, no taxes upon the ground. The boarding-house keeper that does not use a house, furniture, and stock worth $1,500 ought to go out of business and give somebody a chance to keep a decent boarding house.

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. OLMSTED. I call for a vote.

Mr. KING. Mr. Chairman, I move an amendment to the amendment.

The CHAIRMAN. The gentleman will send up his amendment.

Mr. KING. I will submit it at the close of my remarks.

The CHAIRMAN. What is the amendment of the gentleman?

Mr. KING. I will submit it at the close of my remarks.

Mr. WARNER. I ask that the amendment be submitted.

Mr. KING. I want to ask the gentleman from Illinois a question.

The CHAIRMAN. The gentleman moves to strike out the last word.

Mr. KING. I move to strike out the last word. I desire to ask the gentleman in charge of this bill, in the light of the remarks that have just been submitted by my friend from Oregon about the mining companies not having paid any taxes for the maintenance of the Government, as no law exists authorizing taxation upon property in Alaska, whether there is any provision for taxing the net receipts or earnings of mining companies?

Mr. WARNER. Up to this date the taxes are on the stamps. The placer mining, everything done by scoop and shovel, is free. Line 55, page 28, states that the tax on quartz mills is $3 per stamp per year. That is all there is of it.

Mr. KING. I understand that. I have read that. I want to register my disapproval of this system of taxation or lack of taxation provided in this bill.

Mr. TONGUE. Is the gentleman from Utah prepared to submit a better one?

Mr. KING. I would be prepared, very much better prepared, if I had had the time the gentlemen of the committee have had. I understand they have been employed on this for months.

Mr. WARNER. Let me suggest before the gentleman proceeds——

Mr. KING. Well, I shall not have very much time if I consent to many more interruptions, as I have only five minutes.

Mr. WARNER. I simply want to say that this is existing law; it has been in force since the last Congress. The committee is only reenacting the old law and making two or three changes.

Mr. KING. Well, I shall ask unanimous consent of the gentleman in charge of the bill that we may return to this section under consideration for the purpose of permitting an amendment to be offered requiring corporations and certain persons who are producing gold and silver, and perhaps other precious metals, to pay a tax upon the net proceeds of their mines.

Mr. WARNER. I will state that this has been thoroughly considered in the House and the Senate twice, and, without wishing to be discourteous, I can not consent to that.

Mr. KING. I hope the gentleman will consent to return to the section for that purpose. I think those who have been receiving the benefits of the government provided by the United States ought to be willing to contribute liberally to maintain the courts, pay for the police protection, etc., here proposed to be given them. Those who are the beneficiaries of the system of government offered should be required to aid in meeting the expenses of maintaining the system. In many States and Territories provisions have been enacted which tax the net output of the mines. A tax of this character is just. If by wise and liberal laws persons are enabled to acquire valuable mineral lands, and to take therefrom valuable ores, from which they make enormous profits, why should they not contribute out of that which they obtain from the ground a fair sum to aid in meeting the heavy expenditures incurred in operating the government provided for them?

The CHAIRMAN. The time of the gentleman from Utah has expired. The gentleman from Missouri is recognized.

Mr. LLOYD. Mr. Chairman, there are several members of the committee who are opposed to this system of taxation. As far as I am personally concerned, I am opposed to the principle of an occupation tax, and that is the kind of tax that is here imposed. But the only way to remedy it, so far as I see, if we have any system at all, is to provide a local government for the Territory of

Alaska, and, as far as I am individually concerned, I am in favor of a local government for the district of Alaska.

Those of you who were members of the last Congress will remember that this tax provision was attached to the criminal code and was a part of it, and is inserted here by the Senate for the purpose of amending it in one or two subdivisions of the section.

Mr. GAINES. Does the gentleman think we should tax boarding-house keepers $15 and hotels $15?

Mr. LLOYD. I have just stated that I was opposed to an occupation tax. I am opposed to all taxes imposed by this bill.

Mr. GAINES. Did the committee have any testimony before it showing that there were any such concerns up there?

Mr. LLOYD. Yes; there are banks and mercantile establishments, hotels and boarding houses, and other business enterprises. It is not my purpose to extend my remarks, except to call the attention of the committee to the fact that several members of the minority of the committee are opposed to this system of taxation; but it can only be remedied by a local self-government, and by the provisions of this bill there is no self-government. A strange feature of it is that the representatives of Alaska who were before our committee were opposed to having a system of local self-government in that Territory.

Mr. KING. Were all of the committee satisfied with the form of taxation and of government which is provided for in this bill?

Mr. LLOYD. No, sir.

Mr. KING. Why did not the minority offer an organic act which would establish a modicum form of self-government and a reasonable system of taxation?

Mr. LLOYD. I just explained that those representatives from Alaska who were before the committee were opposed to any system of local government, and we were not in a position to insist that these people should have local government when they did not want it.

Mr. TONGUE. Will the gentleman allow me an interruption?

Mr. LLOYD. Certainly.

Mr. TONGUE. Were these people you had before you, and who were opposed to local self-government, holding Federal positions under the present Government? [Laughter.]

Mr. LLOYD. One of them was; but gentlemen will remember that they had a Territorial legislature up there of their own during the last summer; and they elected a delegate from that body and sent him down here. He was before our committee whenever he pleased, instructing us about the wishes of Alaska as expressed by that Territorial convention.

Mr. TONGUE. Did he press local self-government?

Mr. LLOYD. He said that the convention was opposed to it; but, as I understood, he as an individual, speaking for himself and representing himself, said that he would be inclined to such a measure.

Mr. TONGUE. I agree with the view that Alaska should have a form of Territorial self-government; and at the proper time I propose to offer an amendment to give it a Delegate in this body.

Mr. LLOYD. A minority of the committee will at a proper time offer an amendment providing for a Delegate.

Mr. TONGUE. I have offered such an amendment.

Mr. LLOYD. I did not know it. There are gentlemen of the committee who are in favor of such a provision.

But that question does not reach this matter of taxation at all. A Delegate may come here and sit in this body; but the question in which my friend is concerned is the question of taxation itself—whether this is the kind of taxation that ought to be imposed. While I am opposed to this system of taxation and am opposed to those people up there having any government not controlled by themselves—and I believe, from my information on the subject, that they are fully competent to administer a government for themselves—yet when their representatives come here and insist that the people there do not want it, we, as I repeatedly said, are not in a position to force it upon them.

The amendment was withdrawn.

The question being taken on the amendment of Mr. GAINES, it was rejected.

The Clerk read as follows:

Patent-medicine venders (not regular druggists), $50 per annum.

Mr. GAINES. I move to strike out the last word, for the purpose of asking my friend from Illinois how much the regular druggists are taxed in this bill. They are referred to in the paragraph just read.

Mr. WARNER. I do not remember.

Mr. GAINES. Are they taxed at all?

Mr. WARNER. If the gentleman will refer to line 33, page 27, he will find that drug stores pay a tax of $50 per annum.

Mr. GAINES. I withdraw the pro forma amendment.

The Clerk read as follows:

Restaurants, $15 per annum.

Mr. GAINES. For the purpose of making an inquiry, I move to strike out this paragraph. Here is a tax of $15 per annum upon restaurants. I wish to ask my friend from Illinois why his committee propose to tax in this way these places where people go to get something to eat? I ask the question in all seriousness.

Mr. WARNER. We tax restaurants here because they pay no taxes in any other way; and the present bill reduces this tax $10 a year. Under existing law restaurants pay $25 per annum, which this bill proposes to reduce to $15. That is a very small tax on this business.

Mr. GAINES. If there is a reduction, that is better.

Mr. WARNER. The people up there—many of them—sleep in tents and get their food to a greater extent in restaurants than anywhere else.

Mr. GAINES. I withdraw my amendment.

The Clerk read as follows:

Ships and shipping: Ocean and coastwise vessels doing local business for hire, plying in Alaskan waters, registered in Alaska and not paying license or tax elsewhere, $1 per ton per annum on net tonnage, custom-house measurement, of each vessel.

The amendment reported by the committee was read, as follows:

In lines 83 and 84 strike out "registered in Alaska and not paying license or tax elsewhere."

Mr. LOUD. Mr. Chairman, I rise for the purpose of calling the attention of possibly three or four members of the House to the system of double taxation which this bill imposes upon the shipping interests of this country. Perhaps, if I had not an abiding faith in the wisdom of the body at the other end of this Capitol, I might make a little more of a contest. I can assure gentlemen, however, that the legislators at the other end of the Capitol will not permit such a system of taxation as this to be continued.

Let me say to the House again that a ship is taxed where it is registered—taxed upon the value of the ship; but if the ship, though it may be registered elsewhere, wants to do business in Alaska, it must, under this bill, pay a tax of $1 a ton there. Now, if there is any provision of that kind in any State of the United States, if there is any system of taxation in this country whereby double taxation is thus imposed upon any business, I do not know it. I say again that the committee have not grasped this question. The Senate have grasped it, because they provide that if a vessel be registered in Alaska it shall be taxed there and not elsewhere; if it be registered in any other place, it must pay taxes upon the value of the ship at the point where it is registered.

The gentleman in charge of the bill says: "Let the ship get a register in Alaska." Registers are things which probably the gentleman thinks can be carried about in a man's vest pocket; so that when he goes up to Alaska he can register his ship, and when he proposes to leave he can put his register back in his vest pocket and go somewhere else. There is about as much wisdom displayed in these two sections relating to the taxation of ships——

Mr. KING. As there is in the rest of the sections.

Mr. LOUD. So far as the other sections are concerned, while there was a good deal of talk about the meat markets, there is no other way of reaching them. But there is a way of reaching these ships; they can not escape taxation at the place where they are registered. But you propose, on top of that taxation of 1½ or 2 per cent at the place where the ship is registered, to impose a tax of $1 a ton upon any vessel proposing to do business in Alaska. Now, my people are somewhat interested in this.

Mr. JONES of Washington. These vessels also do an ocean business.

Mr. LOUD. Of course. If a ship proposes to make a single trip to inland Alaskan waters, she must pay a dollar a ton.

Mr. CUSHMAN. Mr. Chairman——

Mr. LOUD. I have not quite finished yet. I do not think I have much hope of calling the attention of the House to the enormity of this taxation, because the House itself will not listen, and the committee can not grasp the question. I do not think now that they grasp the point that you are imposing a double taxation upon shipping. I said the interests of my State are somewhat concerned. You impose a tax of more than $40,000 a year upon a salmon cannery there, and you will impose a tax of more than $100,000 a year upon shipping.

Mr. WARNER. I agree with the gentleman from California that the gentlemen at the other end of this Capitol do understand their business and are capable of passing laws that are constitutional and proper. That is one of the reasons why this amendment was made by the committee of the House to the bill as it came from the Senate. This amendment was made in order to have this section read exactly as the existing law now reads. This amendment brings this section to read exactly as the law now reads, which passed both the House and Senate.

Mr. TONGUE. And it was put on by the Senate originally.

Mr. WARNER. It was put on by the Senate originally. The gentleman from California [Mr. LOUD] says it makes double taxation. I deny that proposition. The trouble is that the gentleman from California wishes to get revenue to go to that State for business done in Alaska. That accounts for the milk in the cocoanut and the monkey's face thereon. Let us read this section:

Ships and shipping: Ocean and coastwise vessels doing local business for hire, plying in Alaskan waters, registered in Alaska and not paying license or tax elsewhere.

When the Senate used that language they must have intended to mean something by it. If they can not be taxed at any place except where they are registered, why do they put in the words "And not paying license or tax elsewhere?" They knew that they could be registered in Alaska and pay their license or tax where it was the lowest, and escape the tax imposed in this bill. The Senate said that as plainly as they could say it in this section that they could register in Alaska and yet pay their license in some other State or country, and escape this tax. We say that if they register in Alaska, or if they do local business in Alaskan waters, they must pay the Alaska tax. That is all this means, and it is right and proper and just; and California has no right to say that she shall take this tax for local business done in Alaskan waters any more than Alaska would have a right to say that she should have the tax for local business done in the local inland waters of California. Let the tax go where the business is done, where the protection is furnished for the property.

Mr. LOUD. Does not the gentleman know that if a vessel be registered in Alaska it can do business in any other part of the United States without paying a tax?

Mr. WARNER. I do not know anything of that kind.

Mr. LOUD. Well, it is a fact, nevertheless.

Mr. WARNER. I know what the Senate is trying to do here, and I know what the gentleman wants done. He wants a vessel to be registered in Alaska and pay its license or tax in California and escape the Alaska tax.

Mr. LOUD. Oh, no; he does not.

Mr. WARNER. Then why have you got it in this bill, and why do you insist on its remaining in the bill? If it means nothing, what is the use of having it in there?

Mr. LOUD. If the vessel be registered in Alaska, it can not be taxed at any other point in the United States, because you can not reach it.

Mr. WARNER. If that is so, this does not hurt the gentleman.

Mr. OLMSTED. Let the vessel be registered there.

Mr. WARNER. Let the vessel be registered there. If the gentleman's statement of the law is correct, he ought not to kick, because this does not hurt him.

Mr. KAHN. Does the gentleman know that the waters of Alaska are icebound most of the year, and that these vessels can do business there only three or four months?

Mr. WARNER. I know they are not icebound for any part of the year along the channels of the southeastern coast. The lowest that the thermometer went in Juneau last winter was 8 above zero.

[Here the hammer fell.]

The CHAIRMAN. Debate on this amendment is exhausted, and the question is on the amendment of the committee, as reported by the Clerk.

The question being taken, on a division (demanded by Mr. WARNER) there were—ayes 77, noes 16.

Accordingly the committee amendment was agreed to.

The following committee amendment was read by the Clerk, and agreed to:

In section 31, line 2, strike out the word "shall" and insert the word "may."

The following committee amendment was read, and agreed to:

Page 33, line 40, after the word "provided," strike out the words "not to exceed" and insert the word "no."

The following committee amendment was read, and agreed to:

In line 41, page 33, strike out the words "building and three jails" and insert "building or jail."

Mr. KING. I move to strike out the last word. I want to appeal to my friend from Illinois [Mr. WARNER] to permit an amendment to be offered taxing the net output of the mines in the Territory of Alaska. I understood my friend from Oregon [Mr. TONGUE] to say that nearly all of the output of these mines, or the greater portion of it, is taken to England or to Canada. We are not particularly the beneficiaries except so far as the money which results is circulated in the channels of trade.

Mr. WARNER. That applies to only one mine.

Mr. KING. Certainly there is more than one profitable mine in the Territory of Alaska.

Mr. WARNER. There will be no objection to the gentleman preparing an amendment, and it can be offered at any time. It can be brought in at the end of the bill or anywhere else. There is no desire or intention to choke off anything of that kind; but we did not want a speech made until we knew what it was being made about.

Mr. KING. I want to give notice, in view of the very courteous concession of the gentleman from Illinois, that I shall prepare and offer an amendment before we leave the bill providing that the net output of mines shall be subject to a graduated taxation according to the output.

Mr. TONGUE. I suggest to the gentleman from Utah that he change the title to his amendment and that he call it an amendment to encourage perjury and to permit the mine owners to tax themselves.

Mr. KING. The remark of my friend from Oregon is certainly not warranted in view of the very fortunate manner in which similar laws have been executed in a number of States and Territories. If his State does not have a law of the character I have indicated, it does not speak very well for the learning of my friend and of the legislators in his State.

Mr. TONGUE. I am not a member of the legislature of Oregon.

Mr. PAYNE. I ask unanimous consent to go back to line 55, on page 28.

Mr. GAINES. Let me make an observation just there——

Mr. PAYNE. If the gentleman will forbear for a moment, until I make my request.

The CHAIRMAN. The gentleman from New York [Mr. PAYNE] asks unanimous consent to return to line 55, on page 28. Is there objection?

Mr. WARNER. I have no objection.

The CHAIRMAN. The Chair hears no objection.

Mr. PAYNE. This provides a tax on stamp mills of $3 per stamp. I think that tax is very small, indeed, in proportion to the other taxes in the bill. The principal quartz mine there has 880 stamps and a capital of $5,000,000, although the property cost a good deal less than that. They have in sight ore which will keep the mill running for thirty years, and they make large profits every year; I think a half million dollars or more profit annually.

Mr. KING. Will my friend permit an inquiry there?

Mr. PAYNE. Certainly.

Mr. KING. Would not this be a very fair tax, if another tax is imposed upon the output of the mine, because the owner of the quartz mill will in most instances be the owner of the mine?

Mr. PAYNE. I do not know about that, but I think $10 per stamp would be a very fair tax. That would only be a tax of $8,800 a year on a capital of $5,000,000.

Mr. DE VRIES. I will say to the gentleman that that is a very heavy tax. Make it $5 a stamp. That is plenty high enough.

Mr. PAYNE. It is suggested that $5 per stamp would be a pretty good tax, and I am willing to accept that. I move to strike out "three" and insert "five."

The amendment of Mr. PAYNE was agreed to.

Mr. GAINES. Mr. Chairman, a few moments ago the gentleman from Oregon [Mr. TONGUE] taunted the gentleman from Utah [Mr. KING] in language that was rather unusual, although possibly parliamentary, saying that this amendment would encourage unlimited cases of perjury.

Mr. KING. That is the same objection which was urged against the income tax, as my friend will remember.

Mr. GAINES. That it would encourage all sorts of perjury and wrong, and everything of that kind.

Mr. PAYNE. Does the gentleman move to strike out the words "free and unlimited?" [Laughter.]

Mr. GAINES. The taxes imposed in this bill seem be unlimited, to tax everything in sight and out of sight. Therefore I might adopt the gentleman's suggestion. [Laughter.]

Mr. WARNER. I do not want to interfere, but this can be offered later.

The CHAIRMAN. The gentleman from Tennessee [Mr. GAINES] has been recognized for five minutes.

Mr. GAINES. The gentleman objects to taxing the output of the mines, and yet this bill proposes a tax on the sawmills which turn out the lumber to build the houses to shelter the people out there.

Mr. TONGUE. I made no objection to the amendment of the gentleman from Utah.

Mr. GAINES. Then I do not know what there is in loaded language, if you did not object to the proposition of the gentleman from Utah. You objected to that, and yet you let a proposition go by without objection which taxes the sawmills which give the people lumber up there.

The CHAIRMAN. The gentleman from Utah withdrew his amendment. The question is on the committee amendment.

The committee amendment was agreed to.

The Clerk read as follows:

SEC. 32. For each certificate issued to a member of the bar, authorizing him to practice law in the district, a fee of $10 shall be paid to the clerk of the court, which shall be by him promptly remitted to the secretary of the district, and at the same time the clerk shall advise the governor of such remittance. For each commission issued to a notary public a fee of $10 shall be paid to the secretary of the district, and the fees so received by the secretary shall be by him retained and kept in a fund to be known as the district historical library fund. The fund thus collected shall be disbursed on the order of the governor for the purpose of establishing and maintaining the district historical library and museum. The same shall embrace copies of all laws relating to the district, and all papers and periodicals published within the district, and such other matter of historical interest as the governor may consider valuable and appropriate for such collection. The collection shall also embrace such curios relating to the aborigines and the settlers as may be by the governor deemed of historical importance. The collection thus made shall be described by the governor in the annual report of the governor to the Secretary of the Interior, and shall be by him kept in a secure place and turned over to his successor in office. The secretary of the district and the governor shall each annually account to the Secretary of the Interior for all receipts and disbursements in connection with such historical library and museum.

The amendments recommended by the committee were read, as follows:

In line 8 strike out the words "and the" and insert after the word "district" the word "The:" in the same line strike out the word "so;" in line 9, after the word "secretary," insert the words "under this section."

The amendments were agreed to.

The Clerk read as follows:

Insert as a new section:

"SEC. 33. The historical library and museum provided for in section 32 of this title is hereby made a designated depository of publications of the Government, and shall be supplied with one copy of each of said publications in the same manner as such publications are supplied to other depositories."

The amendment was agreed to.

Mr. WILLIAM E. WILLIAMS. Mr. Chairman, I desire to offer the further additional sections.

The Clerk read as follows:

CITIZENSHIP.

SEC. 34. That all citizens of the United States who were bona fide residents of the district of Alaska on the 1st day of November, A. D. 1899, are hereby declared to be citizens of the district of Alaska, and all citizens of the United States who shall hereafter reside in the district of Alaska for one year shall be citizens of Alaska.

ELECTION DISTRICTS.

SEC. 35. The judges of the district, or a majority of them, shall, as soon as practicable after their appointment, meet, and by appropriate order, to be thereafter entered in each division of the court, divide the district into such number of election districts as they may deem necessary, and also define the boundaries thereof by natural objects and permanent landmarks or monuments in such manner that the boundaries of each election district can be readily determined and become generally known from such description, which order shall be given publicly by posting, publication, or otherwise, as the judges of the court or any division of the court may direct, the necessary expense of the publication of such order and the description of the recording divisions be allowed and paid as other court expenses. Said judges, or a majority of them, shall appoint three judges and two clerks in and for each election district; and in case the judges and clerks so appointed shall fail to appear and qualify at the time and places to be designated by the judges for the holding of the election for which they shall be appointed, the qualified voters present may select such judges and clerks.

ADMINISTERING OATHS.

SEC. 36. Any judge, clerk, commissioner, or notary public may administer the oath to the judges and clerks of elections and all other oaths incident to the proper conduct of all elections held under authority of this act.

GENERAL ELECTIONS.

SEC. 37. That a general election shall be held on the first Tuesday next after the first Monday in November, 1900, and every second year thereafter: *Provided, however*, That the governor may, on thirty days' notice, order a special election whenever the necessity therefor exists.

QUALIFICATIONS OF VOTERS FOR DELEGATE.

SEC. 38. That in order to be qualified to vote for Delegate to Congress a person shall—

First. Be a male citizen of the United States.

Second. Have resided in the Territory not less than one year preceding the election and in the district in which he offers to register not less than three months immediately preceding the time at which he offers to register.

Third. Have attained the age of 21 years.

Fourth. Within thirty days prior to each regular election have caused his name to be entered on the register of voters for his district.

Fifth. Be able to speak, read, and write the English language.

DELEGATE TO CONGRESS.

SEC. 39. That a Delegate to the House of Representatives of the United States, to serve during each Congress, shall be elected by the qualified voters of the district at the first general election held under this act, and every second year thereafter. Such Delegate shall possess the qualifications necessary for membership of the House of Representatives of the United States, and shall be a legal voter of said district. The times, places, and manner of holding elections shall be fixed by law. The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be given accordingly. Every such Delegate shall have a seat in the House of Representatives, with the right of debate, but not of voting.

Mr. WILLIAM E. WILLIAMS. Mr. Chairman, I do not care to discuss this amendment at any great length. I discussed it the other day, and I believe that the discussion along the line of the bill has thus far demonstrated one fact conclusively, and that is the necessity of some kind of representation upon this floor. We discussed the other day the question of the necessity for three judges, and it disclosed a woeful ignorance on the part of members as to the conditions in Alaska, and the uncertainty as to the location of the population and the requirements of the judiciary. I believe that the difficulties which we have encountered here about legislating for that district could be largely remedied by the election of a delegate from the district who would be possessed of the necessary information to enlighten this House and enable us to provide needful legislation.

Mr. GAINES. But the people of the district are opposed to it because there are so many darkies here.

Mr. WILLIAM E. WILLIAMS. That is not my understanding. The fact is, during this entire winter gentlemen have been here in attendance upon the committee who purported to represent the interests of the district, and all winter long we have been wholly unable to locate them. It was only in the last few days, when the committee were considering the bill after it came from the Senate, that we learned that some of these gentlemen were, in the interest of a mining syndicate, seeking to gobble up all the mining lands of Alaska. When I ascertained that fact, my suspicions became verified; and I, for one, am not satisfied with the information that those gentlemen have given.

I believe, Mr. Chairman, that the only way needful legislation can be adequately provided for those people is by a Territorial legislature. But the amendment which I propose does not go that far. I have not asked a Territorial legislature. I have only provided by this amendment for a Delegate to represent them upon the floor of this House. In answer to the suggestion of the gentleman from Wisconsin [Mr. OTJEN], why this amendment was not proposed in committee and why a minority report was not brought in by the members who favored the election of a Territorial Delegate, the reason was this: This bill was passed by the Senate and referred to the Committee on Revision of the Laws just two or three days before it was reported to the House, and we were advised by the Speaker that we must get this report before the House by a certain day if we expected consideration at this session, and it was there understood and suggested by the chairman of the committee [Mr. WARNER] that all amendments might be brought in upon the floor, as it was necessary to be expeditious in order to get the bill before the House and upon the Calendar for consideration.

Mr. Chairman, it is not a time for political discussion, and I only desire to trespass upon the rules of the House in order to reply to my friend from Wisconsin [Mr. OTJEN], who said that I had availed myself of an opportunity to make a political speech. It may be that I did. I did discuss questions political, but they pertained to this bill and to Territorial government generally. I did say then, and I desire to repeat, that the people of Alaska have been pledged a Delegate on this floor. I believe, Mr. Chairman, that when any party makes a platform declaration, and the people elect the candidates of that party, it amounts to a ratification of that platform and is a pledge that should be redeemed.

I read the other day an extract from the Republican platform of 1896, in which they pledged the people of Alaska a Delegate on the floor of this House, that they might have needful legislation. I repeat here to-day, and I desire to emphasize what I then stated, and say to gentlemen who represent the Republican party who made that pledge to the people of Alaska, which pledge was ratified by the people at the polls—I say to you, gentlemen, it is your duty to vindicate your pledge, to keep your promise to the people of Alaska, and give them a representative on this floor.

Mr. KLUTTZ. And to which they are entitled.

Mr. WILLIAM E. WILLIAMS. And, as my friend from North Carolina says, to which they are entitled. The Democrats have not had this opportunity. We have not had a majority in either branch of Congress, nor have we had the President. You have, and I do not know why it is that you have not accorded these people their rights long ago.

Recurring to the necessity of a representative, I believe that gentlemen upon both sides of the Chamber will agree to what I say, that we are groping in the dark, attempting to legislate for people without adequate information or knowledge as to what their requirements or needs are, and that a duly accredited Delegate could afford the necessary information and initiate legislation that may be entirely indispensable for the welfare of that community, the protection of property, and the maintenance of peace and order. [Applause.]

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. TONGUE. Mr. Chairman, I am in favor of the object sought to be attained by the amendment of the gentleman from Illinois [Mr. WILLIAM E. WILLIAMS]. I believe Alaska ought to have a Delegate. This discussion has demonstrated one thing that I think will be conceded. It is no disparagement to the intelligence of the members of this House to say that there is not a member that has the requisite knowledge of the local conditions in Alaska, of the resources of Alaska, of the wants of Alaska, to be able to legislate intelligently for it. There is not a member of the House who can spare sufficient time from attending to the local matters within his own district to be able to give the necessary attention to local legislation in Alaska. It ought to have some one whose duty it is, whose province it is, to advise and report legislation pertaining to that particular locality. No one can do it as well as a Delegate elected by themselves. I hope to see it done.

Now, Mr. Chairman, I have an amendment which I shall move as a substitute; and if it is voted down I shall support the amendment of the gentleman from Illinois [Mr. WILLIAM E. WILLIAMS]. I do object to letting the court undertake to manage the elections. The amendment which I suggest provides that it shall be done by the governor. I object, as a Western man, to limiting the franchise to people who are fully naturalized. Alaska will be settled by people from the northern part of Europe—Scandinavians, Finns, and Russians. In every Western State a man is allowed to vote if he is qualified to become a citizen of the United States, if he declares his intention within one year. The amendment I propose increases that to two years, and permits a man to vote who is qualified to become a citizen of the United States, who has declared his intention to become such a citizen within two years.

Mr. WILLIAM E. WILLIAMS. If the only amendment which the gentleman has to offer to my amendment is that the governor, instead of the judges, shall establish these election districts and appoint the judges and clerks, I will accept his amendment.

Mr. TONGUE. That and the provision in regard to naturalized citizens. My substitute provides that persons competent to become citizens who have declared their intention within two years may vote. Now, Mr. Chairman, I move the amendment which I send to the Clerk's desk be adopted as a substitute for the amendment offered by the gentleman from Illinois.

The Clerk read as follows:

Amend by inserting at the end of line 33, page 34, the following:

"SEC. 34. *And be it further enacted*, That a Delegate to the House of Representatives to the United States, to serve during each Congress of the United States, may be elected by the qualified voters of Alaska, and which Delegate shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States in said House of Representatives. The first election shall be held on Tuesday after the first Monday in November, 1900, and every two years thereafter, and in such manner and at such places as the governor shall appoint and direct, and that all subsequent elections, the time, place and manner of holding such elections shall be prescribed by law. The person having the greatest number of votes of the electors qualified as hereinbefore provided shall be declared by the governor elect, and a certificate thereof shall be accordingly given.

"At all elections held under the provisions of this act any male citizen of the United States, 21 years old or upward, or any male person who has resided in the United States, qualified to become a citizen of the United States, and has declared his intentions to become a citizen thereof two years prior to such election, and has been an actual inhabitant of Alaska for six months prior to such election, shall be qualified to vote for such Delegate."

Mr. GAINES. If we give these people a Territorial form of government—which the amendment does not exactly provide for, but it proposes simply to give them a Delegate—that is a good step in the right direction. The next will be a Territorial form of government, which is an embryonic State government. We hold our Territories, and it is the law that we should so hold them, for the purpose of making them ultimately into States. The Constitution allows Congress to "admit new States into the Union" in express terms.

Now, touching upon Alaska, I desire to read from the opinion of a very distinguished jurist upon this very question—a decision rendered by Justice Deady in a case from Alaska, 30 Federal Reports, 115. This decision was alluded to in a speech which I made in this House January 12, 1899. The judge cites numerous authorities, including 1 Peters, 542; 19 Howard, 443; 2 Story, section 3044. I read a portion of his language:

The power to enlarge the number and limits of the United States by the admission of new States into the Union is also expressly given to Congress. In the construction of this power it has been practically held to authorize the acquisition of territory not then qualified for such admission, and the government of the same by Congress in the meantime, and until it is deemed fitted therefor.

I desire to bring sharply to the attention of members the language of this eminent jurist stating our power to hold this territory, what we hold it for, how we should treat it, and how we should not treat it under our laws and customs.

In the exercise of this power, however, Congress can not do or authorize any act or pass any law forbidden by the Constitution, as suspending the writ of habeas corpus in the time of peace; passing a bill of attainder or ex post facto law; quartering soldiers in a house without the consent of the owner in time of peace; making a law respecting the establishment of religion; but it may exercise any legislative power not expressly forbidden to it by the Constitution, and to this there may be a further limit that the same shall not be inconsistent with the spirit and genius of that instrument, nor contrary to the purpose for which territory may be acquired. Subject to these limitations, the manner in which this power can be exercised rests in the discretion of Congress.

It will thus be seen that according to this high authority territory is acquired by us for the purpose of making future States; and we can not hold it in such a way as to prevent its ultimate statehood.

Subject to these limitations, the manner in which this power can be exercised rests in the discretion of Congress.

I also cited in my former speech the leading case of Shively *vs.* Bowlby, 152 United States, recently affirmed in 174 United States. In Shively's case the court lays down the law as Justice Deady did, as follows:

Upon the acquisition of territory by the United States, whether by cession from one of the States, or by treaty with a foreign country, or by discovery and settlement, the same title and dominion passed to the United States for the benefit of the whole people and in trust for the several States to be ultimately created out of the territory.

This is held to be the law, and our time-honored policy—that is, we "acquire and hold" such territory for "future States"—by Cooley in Principles of the Constitution, pages 37, 187, and 188; by Justice Lamar in 142 U. S., 183; and the courts of California in Chapin *vs.* Bourne, 8 Cal.; and in 54 Cal., 455, Leroy *vs.* Dunkery; all of which I quoted from in my speech already cited. Judge Deady's decision was rendered a number of years ago, yet to-day we are holding this Territory of Alaska, as it were, by the throat; we are giving its people officers appointed from the different States—not, I trust of the "carpetbag" kind. We do not give them any local self-government; we give them no boards of public works, no city council; we give them nothing. We hold them, as it were, by an imperial hand, so powerfully condemned by Mr. Cooley and the history of Alaska and recent developments in Cuba so painful to every patriotic American. Now, let us see what we have done. Can any man on this floor—and I do not mean to criticise anybody——

The CHAIRMAN. The time of the gentleman has expired.

Mr. GAINES. I would like five minutes more.

Mr. WARNER. I must insist on the rule.

The CHAIRMAN. Objection is made.

Mr. WARNER. I would like to give the gentleman more time; but he can get in on another amendment.

Mr. GAINES. Does the gentleman object to my finishing my remarks?

Mr. WARNER. I intend no discourtesy to the gentleman, but he can continue his remarks on another amendment. We must get on with this bill.

Mr. HILL. Mr. Chairman——

Mr. WARNER. I would like to say a few words.

The CHAIRMAN. The gentleman from Illinois [Mr. WARNER].

Mr. WARNER. Mr. Chairman, I am of opinion that this proposed amendment or substitute is of too great importance, there is too much involved in it, to allow it to be taken up and considered as an amendment to this bill. It should be introduced as a separate bill, providing for the election of a Delegate from Alaska, etc., and referred to the proper committee.

Mr. COOPER of Wisconsin. Is it not true that the Republican platform of 1896 promised a Delegate to Alaska?

Mr. WARNER. I am not certain as to that.

Mr. HITT. Oh, no; it promised all needful legislation.

Mr. COOPER of Wisconsin. Did it not promise a Delegate?

Mr. HILL. The language has been quoted here correctly; it promised all needful legislation.

Mr. WARNER. A proposition of this kind should be submitted to the House in a separate bill, referred to the proper committee, considered by it, and then reported back.

It would cost more to hold a general election in the district of Alaska than it would to hold a similar election in the State of New York. The population of Alaska is shifting and uncertain. The people generally do not remain in any one place longer than they find it profitable to do so. When they hear of new diggings or new mines they go there in droves. Not one-tenth of the population of Alaska would be represented by any vote that could be taken there. We have had an illustration of this fact within the last few days.

A convention was held at Juneau which denounced Governor Brady and other officials of that district who reside in Sitka. There is a fight between the two towns, and I venture the opinion that there were not fifteen people in that convention who live outside of Douglas Island and Juneau.

So it would be of any convention or election held in that district. The attendance would only come from a few towns along the coast, Juneau, Sitka, Wrangel, Ketchikan, and those places, and we would never hear from the great interior, Circle City, Eagle City, Nome, Unalaska, and other places similarly located.

At the present time there is no necessity for a Delegate from that district. There is no trouble. The governor is authorized and required to make reports and recommendations as to the legislation that is necessary for the district. It is too early to have a Delegate for that district, and for that reason I am opposed both to the amendment and the substitute. We would be compelled to provide an election law for the whole district, the manner of holding elections, registration, and all that, which would be very expensive and could hardly be put in force. I submit that that can be left for a future bill to be introduced in Congress and thoroughly considered. It would not do to act upon this amendment or the substitute at this time, because we can not give it the consideration to which it is entitled during the closing days of this Congress. Therefore, I hope that the substitute and the amendment will both be voted down.

The CHAIRMAN. The question is on the amendment to the amendment.

Mr. WARNER. And I move to close debate.

Mr. ROBINSON of Indiana. Mr. Chairman, I move as an amendment to the amendment to strike out the last word.

The CHAIRMAN. That motion is not in order, as there is already an amendment to the amendment pending.

Mr. ROBINSON of Indiana. My amendment is a pro forma amendment.

The CHAIRMAN. It is not in order under the parliamentary situation.

Mr. WARNER. I move to close debate on the paragraph and pending amendments——

Mr. WILLIAM E. WILLIAMS. Will the gentleman allow me five minutes?

Mr. RIDGELY. Make it ten minutes.

Mr. WARNER. No; I move to close debate on the substitute and amendments in five minutes.

Mr. GAINES. If that requires unanimous consent, I object.

Mr. WARNER. I move that debate be closed.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois [Mr. WARNER] that debate on the pending amendment and on this paragraph be closed in five minutes.

The motion was agreed to.

Mr. WILLIAM E. WILLIAMS. Mr. Chairman, an inquiry was made as to the language of the platform to which I alluded. I will read it again for the information of gentlemen. It says:

We believe the citizens of Alaska should have representation in the Congress of the United States, to the end that needful legislation may be intelligently enacted.

Mr. RIDGELY. What platform is that?

Mr. WILLIAM E. WILLIAMS. That was the Republican platform of 1896.

Mr. COOPER of Wisconsin. Will the gentleman permit me to ask a question of the chairman of the committee?

Mr. WILLIAM E. WILLIAMS. With pleasure.

Mr. COOPER of Wisconsin. In view of what has just been read by the gentleman from Illinois [Mr. WILLIAM E. WILLIAMS] from the Republican platform of 1896, declaring that it is the sense of the Republican party that the people of Alaska should have representation on this floor, what reason is there why the committee have not carried out that pledge?

Mr. WARNER. On account of the changes in the condition of Alaska and the population there, and on account of the fluctuating character of the residents.

Mr. COOPER of Wisconsin. Are there any less people there now who are permanent residents than there were in 1896?

Mr. WARNER. I presume there are more, but at that time, in 1896, they were located along the coast in towns easy of access. Whether that was the platform or not, I do not believe now, under existing conditions, that if a Delegate is provided he should be provided for in this bill. The provision should be made in a separate bill. The platform does not fix any time when that shall be done.

Mr. WILLIAM E. WILLIAMS. I do not yield any further. In 1896, when there were fewer inhabitants of Alaska than there are to-day, it was thought necessary by the dominant party to declare in favor of a Delegate to Congress to represent those people upon this floor. Now the chairman of the committee [Mr. WARNER] has been asked the question what are the changes in the conditions there that would make a different conclusion necessary. The reasons, it seems to me, are all in favor of carrying out the letter of the platform. The population has increased a hundredfold, if not a thousandfold, and the cities of Skagway, Dyea, and Juneau have largely increased in population, until they are quite extensive cities.

Mr. LACEY. Will the gentleman kindly state the provisions of the Democratic platform of 1896 on that subject?

Mr. GAINES. We are all for it.

Mr. LACEY. The declaration of the platform is what I want.

Mr. WILLIAM E. WILLIAMS. I believe there was no provision in the Democratic platform with regard to Alaska, but we did declare, as did you, for the admission of Oklahoma, Arizona, and New Mexico. We have not had the opportunity to redeem that pledge. Why have not you redeemed it when you have had the opportunity?

Mr. LACEY. Why have you become so solicitous about the Republican platform?

Mr. WILLIAM E. WILLIAMS. Simply for the reason, as I stated before, that when a solemn pledge is made to the people and that pledge is ratified by the people at the polls, honor demands that it should be redeemed; and the people of Alaska are entitled to recognition and to a redemption of that pledge in this instance. They have increased to such a number that they are to-day in much greater need of representation here than they were in 1896 when that platform was adopted.

Mr. TOMPKINS. Does the amendment proposed by the gentleman confer upon the Indians the right to vote for a Delegate?

Mr. WILLIAM E. WILLIAMS. No, sir.

Mr. TOMPKINS. I understood that it did.

Mr. WILLIAM E. WILLIAMS. No; I think not. It provides that the voters shall be male citizens of the United States. I do not understand that the Indians are citizens.

Mr. TOMPKINS. I thought there was a provision that all "persons" should be voters.

Mr. WILLIAM E. WILLIAMS. No; it says all "citizens" of the United States who are bona fide residents of the district of Alaska.

Mr. TOMPKINS. Oh, yes.

Mr. WILLIAM E. WILLIAMS. Now, Mr. Chairman, in conclusion, I only want to say that if there was a necessity in 1896 for representation on this floor from Alaska in order that we might inform ourselves and have some one here to advise us as to what was necessary for them, the reasons are tenfold greater to-day, when industries are being developed, when mines have been opened, when people have gone there by tens of thousands, when some form of government has become imperatively necessary, when we have been compelled to provide a civil and criminal code for those people. Surely they are entitled to have some one on this floor who can advise us from time to time as to what they require. If it is not done now, the question will surely arise in the next Congress when further legislation becomes necessary, and we shall then be as much at sea as we are to-day. [Applause.]

[Here the hammer fell.]

The CHAIRMAN. The Chair will state for the information of the committee that the gentleman from Indiana [Mr. ROBINSON], at a proper time and in order, moved an amendment to the amendment of the gentleman from Oregon. The Chair ruled it out of order on the assumption that the amendment of the gentleman from Oregon was an amendment to an amendment, when in fact it was a substitute. The Chair therefore desires to recognize the gentleman from Indiana [Mr. ROBINSON] for five minutes, in order not to do the gentleman an injustice.

Mr. ROBINSON of Indiana. In order to preserve the regularity of procedure, I will ask unanimous consent that I may proceed for five minutes.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent, under the circumstances, that he may be allowed five minutes. Is there objection?

There was no objection.

Mr. ROBINSON of Indiana. Mr. Chairman, I believe in the principle of taxation with representation. This is as old as democracy, as firmly fixed as good government. So believing, I advocate a Delegate in Congress from Alaska. Alaska is a part of our land, is our territory, and inhabited by our people. It has the virtue of being also on the Western Continent, and in North America. So essentially a part of us in contiguity, in population, and by right, no reason exists why she should not have a Delegate on the floor of this House. Hawaii, under the bill recently passed, will have a Delegate, and surely her population, in character and numbers, can not more than measure with the high-bred gentlemen and patriotic people of Alaska, as described to us yesterday by the gentleman from Oregon [Mr. TONGUE]. Alaska, as she is described to us by the visiting statesmen who sojourned there during the last two summers, surely should be represented here.

The gentleman from Connecticut [Mr. HILL] has told of her vast resources and fabulous wealth, not only in gold and metals of many varieties, but in his exuberance to do her justice says she outrivals Switzerland and the Alps. He asks that we do justice to her, as he thinks our own Alaska may become a rival of Switzerland in its annual receipts of a hundred millions a year in profits from tourists.

Mr. Chairman, Alaska was described many years ago by a distinguished Senator as having a climate nine months winter and three months infernally cold weather, but it has changed. The House should give Alaska this Delegate. I am surprised the chairman of the committee opposes this clear right, and that his committee has not provided for it.

The discussion so far on this bill, the lack of information on this floor as to the conditions in Alaska, demand representation here for Alaska. We granted her extensive and expensive courts, three in number. We tax her by a form and in a manner approaching the limit, and her representative should be here to give us information, which, so far, we have sought and failed to find. He should be here, one of her own people and of her own selection, to save false, vicious, and dangerous legislation, enacted because we know not the conditions.

With such a representative selected by the people, with one directly responsible to that people for his acts, and to them answerable for the legislation enacted here on his advice, he would save to them and to the House and the country many times his salary, many times the cost of his election.

These are considerations special but important; but over all is that one that you should not deny to Alaska a right of representation accorded to the other Territories of the country, especially when this right has been guaranteed by the platforms of the parties and comports with the traditions of our Government and the practices and laws of Congress.

Mr. HILL. Mr. Chairman, I am in favor of a Delegate from Alaska. I do not care under which one of these amendments it comes. It strikes me the substitute is rather more simple; but I do not imagine either one of them would pass through Congress without careful revision, not only by this committee, and in the Senate, but in conference. But what I would like to see would be a declaration by this House in favor of a Delegate from Alaska in some form, under an amendment to be sent back to the Senate, to be carefully considered in conference, and perfected and reported as a part of the bill for Alaska. I care nothing about the binding obligation that has been referred to by a gentleman upon the other side. I base my reasons more upon the conditions of to-day than I do upon the conditions that existed at the time that promise was made in 1896.

If Alaska is sufficiently developed to have a representative upon the floor of the national Republican convention and help to nominate a President of the United States, in my judgment it is sufficiently developed to have a Delegate upon the floor of this House to represent its wants and wishes so far as national legislation is

concerned. Alaska has great resources outside of its gold mines and its fisheries. Its simple possession of scenery, which may probably seem absurd to many members of this House, is very valuable. Less than a century ago Switzerland was considered practically a worthless part of Europe, and to-day it receives from travelers who go there to see its scenery over a hundred million dollars a year, and yet the scenery of Switzerland falls into insignificance when compared with the wonderful natural beauties of Alaska, which will attract our people and people from all over the world, who will go there for no other reason except as tourists.

Mr. Chairman, the commerce of Alaska is something that is beyond the ideas of most people on this floor. I take from a circular published by the Board of Trade of Seattle the information that in 1898 144 different vessels sailed from Seattle alone for Alaskan ports, making from 2 to 15 trips each that year, or upward of 365 marine departures from Seattle during that year.

Mr. FLETCHER. And all crowded.

Mr. HILL. And all crowded, as the gentleman truly says. Last year, from January to June, the tonnage of the vessels from Alaska to Seattle aggregated 60,000 tons. During the same five months the tonnage from Seattle to Alaskan ports aggregated 62,000 tons, with cargoes of 29,000 tons, with a passenger business 7,305 persons, and so this business is going on; and, gentlemen, they have a right to be represented.

Let me tell you another thing. From Puget Sound to Marys Island, where our custom-house is, Canada has lighted and buoyed all the channels within her territory. The moment you strike American territory, for 700 miles, there is no light-house, with all of this shipping business which is being transacted, and there they go through these narrow channels without a light and only buoys put down in Wrangle and Seymour narrows. This matter needs careful attention.

Mr. JONES of Washington. Let me suggest to the gentleman that there is 29,000 miles of coast line, and the only light they have is a little lantern.

Mr. HILL. Yes; there is more coast line than on all the rest of the United States put together, and the only light-house that I saw on the trip was improvised by the local authorities at Seattle as a harbor light.

Mr. LLOYD. There is a misunderstanding over here as to the position the gentleman from Connecticut takes on these amendments.

Mr. HILL. I do not care which one is adopted. I am going to vote for the first one, and if I can not get that, I am going to vote for the second. I think there should be a proposition from this House to go before the conference committee for Alaska to have a Delegate on the floor of this House. I am willing to leave the perfection of the measure to the conference committee.

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. RIDGELY. Mr. Chairman, what is the parliamentary status?

The CHAIRMAN. There is an amendment and a substitute to the amendment pending.

Mr. RIDGELY. And the debate is on the substitute?

The CHAIRMAN. The debate has been on both the amendment and the substitute, and debate on both is exhausted. The question is on agreeing to the substitute.

Mr. RIDGELY. I ask unanimous consent for three minutes.

Mr. WARNER. I object to that.

The CHAIRMAN. The question is on the substitute.

Mr. ROBINSON of Indiana. Mr. Chairman, it was understood that I withdrew my amendment.

The CHAIRMAN. Yes. The question is on the substitute offered by the gentleman from Oregon [Mr. TONGUE].

The question was taken; and on a division (demanded by Mr. WILLIAM E. WILLIAMS) there were—ayes 22, noes 56.

Mr. HILL. I call for tellers.

The CHAIRMAN. The gentleman from Connecticut asks for tellers. All those in favor of taking a vote by tellers will rise. [After counting.] Sixteen gentlemen rising, not a sufficient number, and tellers are refused.

So the substitute was lost.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Illinois [Mr. WILLIAM E. WILLIAMS.]

Mr. ROBINSON of Indiana. Are we now voting on the proposition offered by the gentleman from Illinois [Mr. WILLIAM E. WILLIAMS]?

Mr. WARNER. Yes; and for the election law.

The question was taken; and on a division (demanded by Mr. WARNER) there were—ayes 71, noes 21.

Mr. WARNER. Tellers, Mr. Chairman.

The question was taken; and tellers were refused.

So the amendment was agreed to.

Mr. WARNER. I serve notice that I shall oppose the amendment in the House.

The CHAIRMAN. The Clerk will read.

Mr. WHEELER of Kentucky. Before the Clerk begins to read I desire to ask unanimous consent that the committee return to page 16, as I wish to offer an amendment to section 29. I will state that I have the approval of the chairman of the committee.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to return to page 16 for the purpose of offering an amendment, which the Clerk will report.

The Clerk read as follows:

Insert at the end of line 116, page 30, the following:

"*And provided further*, That chapter 12 of title 1 of said first above-mentioned act be amended by adding, after section 138, another section, to be numbered 139 and to read as follows:

"'That no person shall break, take from the nest or have in possession the eggs of any crane, wild duck, brant or goose. Nor shall any person transport or ship out of said Territory the eggs or the contents of the eggs of any crane, wild duck, brant or goose. Nor shall any person, common carrier, or other transportation company carry or receive for shipment such eggs or the contents of said eggs. And any person or company who shall have in possession or receive for shipment or transportation any eggs or the contents of any eggs of the crane, wild duck, brant or goose shall be guilty of a misdemeanor and upon conviction be punished as provided in this section. Any person or company violating the provisions of this section shall be punished by a fine not exceeding $500 or imprisonment not exceeding six months.'"

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. OLMSTED. I do not understand where the gentleman's amendment comes in.

Mr. WHEELER of Kentucky. At the end of section 29, on page 26.

Mr. OLMSTED. But section 29 does not end on page 26.

Mr. WHEELER of Kentucky. My purpose in offering it here was, as the gentleman will perceive, this section relates to crime in Alaska.

Mr. OLMSTED. I have no objection to it, only I want to know where it goes in.

Mr. GIBSON. I suggest to the gentleman that he put it in at the end of section 28.

Mr. WHEELER of Kentucky. That does not relate to the criminal code of Alaska.

Mr. GIBSON. You will find that section 29 does not end at the bottom of the page.

Mr. WHEELER of Kentucky. So I perceive. So I suggest that it better go in at the bottom of page 30. That is at the end of the section, and the Clerk will please make that correction.

Mr. BARTLETT. I should like to know what this amendment is. I have been trying to hear it read.

Mr. WHEELER of Kentucky. I will state what it is. It is an effort to protect the wild ducks and geese of Alaska. It is perhaps known to members of the House that Alaska and Manitoba are the breeding places of the ducks and geese; and there are certain people who have engaged in the business of collecting the eggs of these wild birds, breaking them, and shipping the whites of the eggs to the United States, to be sold for the use of photographers throughout the country. In this way well-nigh all the wild game in Alaska and Manitoba have been destroyed. This is an effort—a very feeble one, I confess—to protect the wild birds of Alaska.

Mr. SHATTUC. And our own birds, too.

Mr. WHEELER of Kentucky. Yes; and our own birds.

Mr. LACEY. I will call attention to the fact that under the Dingley bill we protect to a certain extent the birds' eggs of Canada by means of customs duties on their importation. This provision will supplement that legislation by protecting the same birds when breeding in Alaska.

The question being taken on the amendment of Mr. WHEELER of Kentucky, it was agreed to.

The Clerk read as follows, under Title II, chapter 1 ("Forms of action"):

SECTION 1. There shall be but one form of action for the enforcement of private rights or the redress of private wrongs.

The amendment reported by the committee was read, and agreed to, as follows:

Strike out the whole section and insert the following:

"SECTION 1. The distinction between actions at law and suits in equity, and the forms of all such actions and suits, are abolished; and there shall be but one form of action for the enforcement or protection of private rights and the redress or prevention of private wrongs, which is denominated a civil action."

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. HILL having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. BENNETT, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7433) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1901, and for other purposes.

The message also announced that the Senate had passed the following resolution; in which the concurrence of the House was requested:

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill of the Senate (S. 2344) granting a pension to Alice V. Cook.

CIVIL CODE FOR ALASKA.

The committee resumed its session.

The Clerk read as follows:

SEC. 3. Actions at law shall only be commenced within the periods prescribed in this title after the cause of action shall have accrued, except when in special cases, a different limitation is prescribed by statute. But the objection that the action was not commenced within the time limited shall only be taken by answer, except as otherwise provided in section 57.

The amendment of the committee was read, and agreed to, as follows:

Strike out, in line 1, the words "Actions at law" and insert "Civil actions."

Mr. BARTLETT. I move to amend by striking out the last word. As I understand, under this provision, if it appears upon the face of the pleadings that the cause of action is barred, the defendant would not be permitted to take advantage of it by demurrer. For instance, if suit were brought upon a promissory note, which in many of the statutes is barred after a lapse of six years, and if it should appear on the face of the pleadings that the note was dated more than six years before the filing of the suit, the defendant could not take advantage of the statute otherwise than by answer. Is that the purpose of the section?

Mr. WARNER. I think that is proper. I believe that when a man proposes to take advantage of the statute of limitations he should be compelled to do it affirmatively by answer. It is, in my view, a sort of petty larceny or grand larceny anyway. The privilege of taking advantage of the statute is a personal privilege; the defendant can waive it.

Mr. BARTLETT. I know it is a personal privilege, which the defendant can take advantage of or not as he chooses.

Mr. GIBSON. I call the attention of the gentleman from Georgia [Mr. BARTLETT] to the fact that what he desires is provided for in section 57. That section is referred to in the pending section by this language:

Except as otherwise provided in section 57.

Mr. BARTLETT. Does section 57 provide that this statute may be taken advantage of by demurrer?

Mr. GIBSON. Yes, sir.

Mr. BARTLETT. That is what I was trying to get at; because in most of the States the courts have held that if it appears upon the face of the pleadings that the action would be barred by the statute of limitations, it can be taken advantage of by demurrer. I withdraw the pro forma amendment.

The Clerk read as follows:

SEC. 4. The periods prescribed in section 3 of this act for the commencement of actions shall be as follows:

Within ten years actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it shall appear that the plaintiff, his ancestor, predecessor, or grantor was seized or possessed of the premises in question within ten years before the commencement of the action: *Provided*, In all cases where a cause of action has already accrued, and the period prescribed in this section within which an action may be brought has expired or will expire within one year from the approval of this act, an action may be brought on such cause of action within one year from the date of the approval of this act.

SEC. 5. Within ten years—

First. An action upon a judgment or decree of any court of the United States, or of any State or Territory within the United States;

Second. An action upon a sealed instrument.

SEC. 6. Within six years—

First. An action upon a contract or liability, express or implied, excepting those mentioned in section 5;

Second. An action upon a liability created by statute, other than a penalty or forfeiture;

Third. An action for waste or trespass upon real property;

Fourth. An action for taking, detaining, or injuring personal property, including an action for the specific recovery thereof.

Mr. BARTLETT. Mr. Chairman, it occurs to me that the limitation of six years for recovery in "an action for taking, detaining, or injuring personal property, including an action for the specific recovery thereof," is a very long time. It would seem that a person who has been in possession of personal property for four years ought to be exempt from suit for its recovery. It appears to me that the bona fide undisturbed possession of personal property for four years ought to give the holder of the property exemption from suit for its recovery. I do not want to offer any amendment if the gentleman from Illinois in charge of the bill will state some reason why a period of six years is necessary or proper in the Territory of Alaska. But it seems to me that to allow this liability to suit for the recovery of personal property to hang over a person for six years would seriously disturb the title of personal property in that Territory.

Mr. WARNER. I will say to the gentleman that this is the law that has been in force in Alaska since 1884. It is the Oregon statute verbatim. They are familiar with it up there and are satisfied with it.

Mr. BARTLETT. I understand that. We adopted a great many of the Oregon statutes for Alaska, in reference to criminal procedure, in the last session of Congress; but I myself am not satisfied with the Oregon statutes. I move to strike out the word "six" and insert the word "four." It occurs to me that the undisturbed possession of personal property for four years ought to be time enough to exempt the person from suit.

Mr. WARNER. Then you would strike out the word "six," in line 1 of section 6?

Mr. BARTLETT. Yes; and insert the word "four," so as to make the limit four years.

Mr. WARNER. Then you would limit actions on contracts to four years.

Mr. BARTLETT. Well, I do not care so much about that.

Mr. WARNER. That would be the effect of your amendment. I think you had better leave it just as it is. The people up there are familiar with it and do not object to it at all. If they want a change hereafter, they can come and have it amended. I hope the gentleman will withdraw the amendment.

Mr. BARTLETT. At the suggestion of the gentleman, I will withdraw the amendment, but I am satisfied that six years is a very long period.

The Clerk proceeded with the reading of the bill.

The following committee amendment was agreed to:

On page 38, section 8, in line 3, strike out the word "or," before the word "false;" and after the word "imprisonment" insert "or for any injury to the person or rights of another not arising on contract and not herein especially enumerated."

The following committee amendments were read, and agreed to:

On page 39, section 14, lines 1 and 2, strike out the words "as to each defendant."

In line 3, after the word "summons," strike out the words "served on him, or on a codefendant who is a joint contractor or otherwise united in interest with him," and insert in lieu thereof the word "issued."

The following committee amendment was agreed to:

Strike out all of section 15.

The following amendments were agreed to:

Renumber section 16 to be 15.
Renumber section 17 to be 16.
In line 10 of the renumbered section 16 strike out the word "or."
In line 11 strike out the words: "Fourth. A married woman."
Section 18 to be renumbered section 17.

The renumbered section 17 was read, as follows:

SEC. 17. If a person entitled to bring an action die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced by his personal representatives after the expiration of the time and within one year from his death. If a person against whom an action may be brought die before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced against his personal representatives after the expiration of that time and within six months after the issuing of letters testamentary or of administration.

Mr. BARTLETT. Mr. Chairman, it occurs to me——

The CHAIRMAN. The Chair will say to the gentleman from Georgia that there is no amendment pending.

Mr. BARTLETT. I move to strike out the last word. That is all that I can do. It occurs to me to suggest to the chairman of the committee [Mr. WARNER] that he has provided that the statute of limitations shall commence to run within one year from the death of the person whose right of action survives to his representatives. That ought to be within one year from the appointment of the representative of his estate. A year might elapse from the time of the death of the person who was entitled to bring the suit, and his estate might be unrepresented for a full year.

Now, I do not desire to interfere unnecessarily by the offering of amendments, but I suggest to the chairman of the committee that it would be proper to provide, instead of one year from the death of the person to whose estate the right of action survives, that it should be within one year from the appointment of representation upon his estate.

Mr. WARNER. The gentleman will see that that would not do, because it could be extended for an unlimited time by a failure to have the personal representatives appointed.

I will state that this is the Oregon law verbatim, and I am of the opinion that it is better to compel persons who want to prosecute such claims to have representatives of the deceased persons appointed.

Mr. BARTLETT. I want to say that I am not in love with the Oregon statutes. We had occasion to investigate them last year in adopting a criminal code for the Territory of Alaska. There are a number of laws in force in the State of Oregon that this Congress, after investigation, did not see fit to extend to the Territory of Alaska. The statement that the State of Oregon has these laws does not carry any force with me, because, so far as I have been able to investigate the statutes of Oregon, I find a great many of them which do not commend themselves to my approval.

Mr. WARNER. There are a great many lawyers on this floor, and I presume each lawyer is in love with the statutes of his own State.

Mr. BARTLETT. That is very true.

Mr. WARNER. And each one would insist, if opportunity were afforded him, upon having his own State's statutes incorporated.

Mr. BARTLETT. The gentleman is mistaken about that so far as I am concerned. I am not insisting upon the enactment of the laws of my own State for the Territory of Alaska. I simply want to place upon the statute books laws for that Territory that suggest themselves to my mind as being reasonable and just. I do not think it is reasonable and just to permit the statute of limitations to run against the estate of a decedent who is unrepresented for twelve months after his death.

I think it would be proper to provide the statute of limitations should begin to run from the date of the appointment of the representative of the estate, unless the estate was unrepresented for a given length of time—say two or three years. Then it should be permitted to begin to run. I merely make these suggestions. I have no interest in the Territory of Alaska, except as a Representative here, to see that those people get the best laws possible that we can pass for them, and I do not think this is a good law to pass.

The CHAIRMAN. The pro forma amendment is withdrawn.

Mr. GIBSON. I move to strike out the last word. I wish to state to the gentleman from Georgia and to others who are interested in the matter, that the committee did not undertake to get up a system of ideal laws. We took the laws as we found them in existence in the district of Alaska. In the district of Alaska the laws of Oregon prevail by act of Congress; and this bill has been examined by a committee of Alaskan lawyers, and they have suggested to us the changes which they desired. The committee of the House has to a large extent conformed to the suggestions of that committee of Alaskan lawyers. It was not the purpose of the committee to go over the laws of Oregon that are applicable to the district of Alaska and entirely recast them. We took them as we found them except so far as the lawyers of Alaska desired to change. I withdraw my pro forma amendment.

Mr. FITZGERALD of New York. I move to strike out the last two words.

Mr. Chairman, in connection with the suggestion of the gentleman from Georgia, I think it would be well for the committee to consider the fact that in the Territory of Alaska there will be a great many people from different States, and that it may be very difficult for those interested in the estate of people dying there to have personal representatives appointed within one year. Gentlemen should realize that if an application be made for the issuance of letters of administration upon an estate, and litigation results over that application, and pending the determination of the litigation one year should expire from the time of the death of the deceased, that the people who are ready and anxious to commence action against the estate of such deceased person would be debarred and deprived of their right, simply because the different claims of people interested in the estate prevents the appointment of legal representatives within the year.

I think that the suggestion of the gentleman from Georgia [Mr. BARTLETT] is proper. It may be that in the State of Oregon, a settled community, where civilized methods have prevailed for some years in their highest form, the people there may be able to secure personal representatives within a year; but in a place like Alaska, where the people are scattered over a wild territory, and where it may sometimes be a year before the decease of a person becomes known, the statute should run at least one year from the appointment of the legal representatives for creditors or those having claims against the estate to commence action.

Mr. TOMPKINS. Let me call the attention of the gentleman from New York to the fact that the creditor may take out letters of administration. If the creditor has a cause of action against a deceased person or estate and desires to commence action, if no next of kin applies, the creditor may apply.

Mr. FITZGERALD of New York. I would suggest this to the gentleman: Suppose the creditor should apply, and the next of kin, or some one claiming to be next of kin, disputes his right to the letters, might not more than a year be taken in the settlement of that dispute, and how could an action be then brought? I suppose there are parts of Alaska, rather uninhabited parts, where the death of a person might not become known for a year; this would deprive those having claims against the estate of such a person of right of action against the estate and would be unjust.

Mr. TOMPKINS. By this bill they would have unbarred action under the statute of limitations. The gentleman's argument assumes that the bar of five or six years allowed by the statute of limitations has fully expired. This extends the statute of limitations one year; and this is a reasonable time for all the claims alleged prior to the death of a party who has expired.

Mr. FITZGERALD of New York. A man may die at any time. If he died within a month of the expiration of the time of the statute, then it would practically be a limitation of one year.

Mr. BARTLETT. Do I understand the gentleman from New York to say that this extends the statute of limitations for one year?

Mr. TOMPKINS. That is just it. By reason of the death of the debtor or the person who may be liable in any action, and the cause of action survive as an incident to that death the time is extended one year.

Mr. BARTLETT. From his death?

The Clerk read as follows:

Strike out section 21, lines 1 to 6, on page 41.

The amendment was agreed to.

The Clerk read to bottom of page 42, at the end of section 24.

The CHAIRMAN. The Chair will, without objection, direct the Clerk to renumber the sections as required by the amendments agreed to.

There was no objection, and it was so ordered.

The Clerk read as follows:

SEC. 25. Every action shall be prosecuted in the name of the real party in interest, except as otherwise provided in section 29; but this section shall not be deemed to authorize the assignment of a thing in action not arising out of contract.

The amendment recommended by the committee was read, as follows:

Page 43, section 25, in line 3, strike out the words "twenty-nine," and insert the words "twenty-seven."

The amendment was agreed to.

The Clerk read as follows:

SEC. 28. A wife may receive the wages of her personal labor, and maintain an action therefor in her own name and hold the same in her own right, and she may prosecute and defend all actions at law or in equity for the preservation and protection of her rights and property as if unmarried.

The amendment recommended by the committee was read, as follows:

On page 44, section 28, line 4, strike out the words "at law or in equity."

The amendment was agreed to.

The Clerk read as follows:

Strike out sections 31 and 32 and paragraphs first and second.

The amendments were agreed to.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word. I desire to ask the gentleman from Illinois in charge of this bill about this section 30, which is amended, and which provides that a wife may receive the wages of her personal labor and maintain an action therefor in her own name. Is there any provision in this bill which provides that if a wife inherits or acquires property, it shall be her separate property? For instance, if a wife inherits property, or acquires property by labor, not simply wages; but suppose she invests her wages in property, is it not also separate property?

Mr. WARNER. She has absolute control of all her property as femme sole. This provision about wages is brought in here because ordinarily the husband is entitled to the labor of the wife.

Mr. BARTLETT. I understand that. I made the motion to strike out for the purpose of inquiring of the gentleman if this bill also contains a provision that gives to the wife title to the property acquired or inherited by her. In other words, whether this law extends to Alaska the married woman's act which we have in most of the States.

Mr. WARNER. It gives her absolute control of her property, except that part that she gets through her husband that can be reached for her husband's debt.

Mr. BARTLETT. In other words, if a wife inherits property or acquires property, or invests her savings in property, it becomes her property as much as if she was femme sole?

Mr. WARNER. Subject to the husband's courtesy, she is a femme sole.

Mr. BARTLETT. I withdraw my amendment, Mr. Chairman.

The Clerk read the following amendment, recommended by the committee:

On page 44 add a new section, as follows:

"SEC. 29. Actions may be commenced and prosecuted by infants, either by guardian or next friend, and by conservators on behalf of the persons they represent."

The amendment was considered, and agreed to.

The Clerk read the following amendment, proposed by the committee:

On page 45 add a new section, as follows:

"SEC. 30. In any action it shall be lawful for the court in which the action is pending to appoint a guardian ad litem to any infant or insane defendant in such action, and to compel the person so appointed to act. By such appointment such person shall not be rendered liable to pay costs of action; and he shall, moreover, be allowed a reasonable sum for his charges as such guardian, to be fixed by the court, and taxed in the bill of costs."

The amendment was agreed to.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 35. No action shall abate by the death, marriage, or other disability of a party, or by the transfer of any interest therein, if the cause of action survive or continue. In case of the death, marriage, or other disability of a party, the court may at any time within one year thereafter, on motion,

allow the action to be continued by or against his personal representatives or successor in interest.

With the following amendments, recommended by the committee:

In line 1, section 37, page 46, after the word "death," strike out the word "marriage."
In line 4 strike out the word "marriage."
In line 5 strike out the words "one year" and insert "two years."

The amendments were agreed to.

The Clerk read as follows:

SEC. 37. In any action for the recovery of specific personal property, if a third person demand of the defendant the same property, the court, in its discretion, on motion of the defendant, and notice to such person and the adverse party, may, before answer, make an order discharging the defendant from liability to either party, and substitute such person in his place as defendant. Such order shall not be made but on the condition that the defendant deliver the property or its value to such person as the court may direct, nor unless it appears from the affidavit of the defendant, filed with the clerk by the day he is otherwise required to answer, that such person makes such demand without collusion with the defendant. The affidavit of such third person as to whether he makes such demand of the defendant may be read on the hearing of the motion.

With the following amendments recommended by the committee:

In line 11, page 47, after the word "clerk," insert the words "or court."

The amendment was agreed to.

The Clerk read the following amendments recommended by the Committee:

On page 47 insert a new section 38, as follows:
"SEC. 38. All persons having an interest in the subject of the action, and in obtaining the relief demanded, may be joined as plaintiffs, except as in this chapter otherwise provided. Any person may be made a defendant who has or claims an interest in the controversy, adverse to the plaintiff, or who is a necessary party to the complete determination or settlement of the question involved therein."

The amendment was agreed to.

The Clerk read the following amendment, recommended by the committee:

On page 47 insert the following:
"SEC. 39. Of the parties to the action, those who are united in interest must be joined as plaintiffs or defendants; but if the consent of any one who should have been joined can not be obtained, he may be made a defendant, the reason thereof being stated in the complaint; and when the question is one of a common or joint interest of many persons, or when the parties are numerous, and it may be impracticable to bring them all into court, one or more may sue or defend for the benefit of the whole."

The amendment was agreed to.

The Clerk read the following amendment, recommended by the committee:

On page 48 insert a new section 41, as follows:
"SEC. 41. Any person may, before the trial, intervene in an action or proceeding, who has an interest in the matter of litigation, in the success of either of the parties, or an interest against both. An intervention takes place when a third person is permitted to become a party to an action or proceeding, either by joining the plaintiff in claiming what is sought by the complaint, or by uniting with the defendant in resisting the claims of the plaintiff, or by demanding anything adversely to both the plaintiff and the defendant, and is made by complaint setting forth the ground upon which the intervention rests, filed by leave of the court and served upon the parties to the action or proceeding who have not appeared, and upon the attorneys of the parties who have appeared, who may answer or demur to it as if it were an original complaint."

The amendment was agreed to.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 42. Actions at law shall be commenced by filing a complaint with the clerk of the court, and the provisions of sections 14 and 15 shall only apply to this subject for the purpose of determining whether an action has been commenced within the time limited by this code. At any time after the action is commenced the plaintiff may cause a summons to be served on the defendant.

With the following committee amendments:

In line 1, page 48, insert before the word "action" the word "civil;" and in the same line strike out the words "at law."
In line 3, page 49, strike out the word "sections" and insert the word "section;" in the same line strike out the words "and fifteen."
In line 6 strike out the word "code" and insert "title."

The amendments were agreed to.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 43. The summons shall contain the name of the court in which the complaint is filed, the names of the parties to the action, and the title thereof. It shall be subscribed by the plaintiff or his attorney and directed to the defendant, and shall require him to appear and answer the complaint as in this section provided, or judgment for want thereof will be taken against him. The defendant shall appear and answer the complaint within twenty days from the date of the service.

With the following committee amendments:

In lines 3 and 4, page 49, strike out the words "subscribed by the plaintiff or his attorney" and insert "issued by the court or the clerk thereof."
In line 9 strike out the word "twenty" and insert "thirty."

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 45. The summons shall be served by the marshal or any deputy, or by a person specially appointed by him or by the court or judge thereof. The summons shall be returned to the clerk of the court with whom the complaint is filed within forty days after its delivery to the officer or other person for service, with proof of such service or that the defendant can not be found. The marshal or other person to whom the summons is delivered shall indorse thereon the date of such delivery.

With the following committee amendments:

In line 4, page 50, before the word "clerk," insert the words "court or;" in the same line strike out the words "of the court" and insert the word "thereof."

The amendments were agreed to.

The Clerk read as follows:

SEC. 47. When service of the summons can not be made as prescribed in the last preceding section, and the defendant after due diligence can not be found within the district, and when that fact appears by affidavit to the satisfaction of the court or judge thereof, or justice of the peace in an action in a justice's court, and it also appears that a cause of action exists against the defendant, or that he is a proper party to an action relating to real property in the district, the court or judge thereof, or a justice of the peace in an action in a justice's court, shall grant an order that the service be made by publication of the summons in either of the following cases:
First. When the defendant is a foreign corporation, and has property within the district, or the cause of action arose therein;
Second. When the defendant, being a resident of the district, has departed therefrom with intent to defraud his creditors or to avoid the service of the summons, or with like intent keeps himself concealed therein, or has departed from the district and remained absent therefrom six consecutive weeks;
Third. When the defendant is not a resident of the district, but has property therein, and the court has jurisdiction of the subject of the action;

With the following committee amendments:

Line 8, page 51, after the word "real" insert the words "or personal."

The amendment was agreed to.

The Clerk read the following additional provision, recommended by the committee:

Fourth. When an action is to have a marriage declared void, or for a divorce in the cases prescribed by law;
Fifth. When the subject of the action is personal property in the district, and the defendant has a claim or lien, of interest, actual or contingent, therein, or the relief demanded consists wholly or partly in excluding the defendant from any interest or lien therein;
Sixth. When the action is to foreclose, satisfy, or redeem from a mortgage, or to enforce a lien of any kind on real estate in said district, or satisfy or redeem from the same.

The amendments were agreed to.

The Clerk (proceeding with the reading of the bill) read as follows:

SEC. 48. The order shall direct the publication to be made in a newspaper to be designated as the most likely to give notice to the person to be served, and for such length of time as may be deemed reasonable, not less than once a week for six weeks. In case the publication, the court or judge shall also direct a copy of the summons and complaint to be forthwith deposited in the post-office, directed to the defendant at his place of residence, unless it shall appear that such residence is neither known to the party making the application nor can with reasonable diligence be ascertained by him. When publication is ordered, personal service of a copy of the summons and complaint out of the district shall be equivalent to publication and deposit in the post-office. In either case, the defendant shall appear and answer by the first day of the term following the expiration of the time prescribed in the order for publication, and if he does not, judgment may be taken against him for want thereof. In case of personal service out of the district, the summons shall specify the time prescribed in the order for publication.

With the following committee amendments:

In line 2, page 53, after the word "designated," insert the words "by the court."
In line 5 strike out the word "the" and insert "of."
In lines 14, 15, 16, and 17, strike out the following: "by the first day of the term following the expiration of the time prescribed in the order for publication, and if he does not, judgment may be taken against him for want thereof," and insert "within 30 days after the completion of such period or publication."

The amendments were agreed to.

The Clerk read as follows:

SEC. 49. Whenever it shall appear by the return of the marshal, his deputy, or the person appointed to serve a summons that the defendant is not found, the plaintiff may deliver another summons to be served, and so on, until service be had; or the plaintiff may proceed by publication; as in this chapter provided, at his election.

The amendment reported by the committee was read, and agreed to, as follows:

Strike out the section.

The Clerk read as follows:

SEC. 53. All the forms of pleading heretofore existing in actions at law and suits in equity are abolished, and hereafter the forms of pleading in courts of record and the rules by which the sufficiency of the pleadings is to be determined shall be those prescribed by this code.

The amendments reported by the committee were read, and agreed to, as follows:

In line 2, after the word "equity," insert "and in admiralty;" at the end of line 5 strike out "code" and insert "title."

The Clerk read as follows:

SEC. 57. The defendant may demur to the complaint within the time required by law to appear and answer, when it appears upon the face thereof, either—
First. That the court has no jurisdiction of the person of the defendant or the subject of the action; or,
Second. That the plaintiff has no legal capacity to sue; or,
Third. That there is another action pending between the same parties for the same cause; or,
Fourth. That there is a defect of parties plaintiff or defendant; or,
Fifth. That several causes of action have been improperly united; or,
Sixth. That the complaint does not state facts sufficient to constitute a cause of action; or,
Seventh. That the action has not been commenced within the time limited by this code.

The amendment reported by the committee was read, and agreed to, as follows:

At the end of the section strike out "code" and insert "title."

The Clerk read as follows:

SEC. 62. The answer of the defendant shall contain—

First. A specific denial of each material allegation of the complaint controverted by the defendant, or of any knowledge or information thereof sufficient to form a belief.

The amendment reported by the committee was read, and agreed to, as follows:

In line 3 insert, before the word "specific," the words "general or."

The Clerk read as follows:

SEC. 68. If the answer contain a statement of new matter, constituting a defense or counterclaim, and the plaintiff fail to reply or demur thereto within the time prescribed by law, the defendant may move the court for such judgment as he is entitled to on the pleadings, and if the case require it he may have a jury called to assess the damages.

The amendment reported by the committee was read, and agreed to, as follows:

In line 4, after the word "law," insert "or rule of the court."

The Clerk read as follows:

SEC. 75. If the irrelevant or redundant matter be inserted in the pleading, it may be stricken out on motion of the adverse party; and when the allegations of a pleading are so indefinite or uncertain that the precise nature of the charge or defense is not apparent, the court may require the pleading to be made definite and certain by amendment.

The amendment reported by the committee was read, and agreed to, as follows:

In line 1 strike out "the," after the word "if."

The Clerk read as follows:

SEC. 79. In pleading an ordinance or enactment of any incorporated city, town, or village, or a right derived therefrom, in any action, suit, or proceeding, it shall be sufficient to refer to such ordinance or enactment by its title and the day of its approval, and the court shall thereupon take judicial notice thereof.

The amendment reported by the committee was read, and agreed to, as follows:

After the word "action," in line 3, strike out the word "suit."

The Clerk read as follows:

SEC. 84. Every material allegation of the complaint not specifically controverted by the answer, and every material allegation of new matter in the answer not generally or specifically controverted by the reply, shall, for the purpose of the action, be taken as true; but the allegation of new matter in a reply is to be deemed controverted by the adverse party as upon a direct denial or the avoidance, as the case may require.

The amendments reported by the committee were read, and agreed to, as follows:

In lines 2 and 4 strike out the word "specifically;" and in line 3 strike out the words "generally or."

The Clerk read as follows:

SEC. 92. The court may likewise, in its discretion and upon such terms as may be just, allow an answer or reply to be made or other act to be done after the time limited by this code, or by an order enlarge such time; and may also, in its discretion, and upon such terms as may be just, at any time within one year after notice thereof, relieve a party from a judgment, order, or other proceeding taken against him through his mistake, inadvertence, surprise, or excusable neglect.

The amendment reported by the committee was read, and agreed to, as follows:

In line 4 strike out "code" and insert "title."

The Clerk read as follows:

SEC. 97. The plaintiff and defendant, respectively, may be allowed on motion to make a supplemental complaint, answer, or reply, alleging facts material to the case occurring after the former complaint, answer, or reply.

The amendment reported by the committee was read, and agreed to, as follows:

At the end of the section add the following: "Copies of all pleadings and other papers subsequent to the complaint must be served upon the adverse party or his attorney."

The Clerk read as follows:

SEC. 98. No person shall be arrested in an action at law except as provided in this section. The defendant may be arrested in the following cases:

First. In an action for the recovery of money or damages on a cause of action arising out of contract, when the defendant is about to remove from the district with intent to defraud his creditors, or when the action is for an injury to person or character, or for injuring or wrongfully taking, detaining, or converting property.

Second. In an action for a fine or penalty, or on a promise to marry, or for money received, or for property embezzled or fraudulently misapplied or converted to his own use by a public officer, or by an attorney, or by an officer or agent of a corporation in the course of his employment as such, or by any factor, agent, broker, or other person in a fiduciary capacity, or for any misconduct or neglect in office or in a professional employment.

Third. In an action to recover the possession of personal property unjustly detained, when the property or any part thereof has been concealed, removed, or disposed of, so that it can not be found or taken by the marshal, and with intent that it should not be so found or taken, or with the intent to deprive the plaintiff of the benefit thereof.

Fourth. When the defendant has been guilty of a fraud in contracting a debt, or incurring the obligation for which the action is brought, or in concealing or disposing of the property for the taking, detention, or conversion of which the action is brought.

Fifth. When the defendant has removed or disposed of his property, or is about to do so, with intent to defraud his creditors.

But no female shall be arrested in any action except for injury to person, character, or property.

The amendments reported by the committee were read, and agreed to, as follows:

In the first paragraph of the section strike out "an" and insert "any civil."

In the second line strike out the words "at law."

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word for the purpose of making an inquiry of the chairman of the committee who reported this bill in regard to the section of chapter 12 which makes provisions relative to the arrest of the defendants in civil actions. These several sections recite the various suits or actions upon which a person may be arrested and confined in jail in the Territory of Alaska. For instance, in section 98 just read it is provided that "no person shall be arrested in any civil action except as provided in this section." The first of the cases in which a person may be arrested is thus stated:

In an action for the recovery of money or damages on a cause of action arising out of contract, when the defendant is about to remove from a district with intent to defraud his creditors, or when the action is for an injury to person or character, or for injuring or wrongfully taking, detaining, or converting property.

Now, this paragraph and the other paragraphs that follow provide for imprisonment for debt. It is true that the instances in which the arrest may be made and the confinement in jail may be had are stated. In the second instance it provides that in actions for a fine or penalty, or on a promise of marriage, or for money received, or for property embezzled, etc. This goes on and states a number of instances in which a person may be arrested and put in jail for nothing except a debt or a suit at law, not involving any moral turpitude.

Mr. Chairman, I desire to call the attention of the committee and the attention of the chairman reporting this bill to the fact that here is a step in a direction which is not sanctioned by the enlightened Christian opinion of the present age. There are very few instances where the law should permit the citizen to be arrested on civil actions. The whole trend of modern times is to resist any effort or any statute to imprison a man for debt. Here you are extending this law over the Territory of Alaska, which covers most instances that could arise in ordinary business transactions of life in that Territory——

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. I ask that my time may be extended for five minutes. I have an amendment which I desire to offer.

The CHAIRMAN. The gentleman from Georgia asks that his time be extended for five minutes. Is there objection?

There was no objection.

Mr. BARTLETT. I understood the Clerk to have read section 98.

The CHAIRMAN. The Clerk has read the first paragraph of it.

Mr. BARTLETT. Well, I want to be in time with my amendment, Mr. Chairman. I want to call the attention of the Committee of the Whole to these provisions. There is one section which I desire to amend, and I will offer the amendment at the proper time.

The CHAIRMAN. Will the gentleman send up his amendment?

Mr. BARTLETT. The paragraph has not yet been reached, Mr. Chairman. But I desire to call attention to the fact that we ought to go very slowly in extending the provision for imprisonment for debt to this new Territory. The law in most States, and the enlightened civilization of the world, certainly of English-speaking people and of Americans, is against imprisonment for debt.

Take, for instance, the sections that follow, which provide that in a suit for the recovery of money or damages upon a contract or cause of action arising out of a contract, you may imprison a man when he is about to remove from the district with intent to defraud his creditors. Well, it is very easy to make that affidavit. It is very easy to catch a man and to allege that he is about to defraud his creditors. The bankruptcy law, which extends its provisions over the district of Alaska and all over the United States, is sufficient to protect the creditor when a debtor endeavors to defraud him. In addition to the bankruptcy law, which you have extended over all the country under the jurisdiction of our Government, you provide for the arrest and detention in jail of a person who may be charged with endeavoring to defraud his creditors.

In section 2 you go further, and in a suit to recover a fine or penalty, or on a promise to marry, or in a simple action for money received, we are to have the person arrested, and in an action to recover possession of personal property, and so forth.

Not only that, but there are numerous instances in this bill which is proposed for the government of Alaska—in fact, almost every instance in which a suit may be instituted upon a contract or upon a tort, this bill proposes to revive the harsh and objectionable proceedings to collect debts by imprisonment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. I have an amendment which I wish to offer later on.

Mr. TOMPKINS. Mr. Chairman, the gentleman from Georgia is entirely mistaken when he asserts that there is any provision

in this chapter for arrest for debt. The provisions of this chapter only provide for arrest in cases of fraud or tort. There is only one exception to that.

Mr. BARTLETT. I wish to call the gentleman's attention to the fact that in an action for the recovery of money or damages on a cause of action arising out of a contract——

Mr. TOMPKINS. I was just about to state that with one exception this chapter provides for arrest only for fraud or for a tort. With that one exception, there is no provision in this chapter providing for arrest that is not contained in the statutes of almost every State in the Union. I know that all of these provisions in substance are contained in the statutes of New York, and we have about as much enlightenment in the State of New York as you have in the State of Georgia.

Mr. TAWNEY. Can the gentleman state when those statutes were enacted?

Mr. TOMPKINS. I can not tell you the year or the month.

Mr. TAWNEY. Time out of mind.

Mr. TOMPKINS. Now, let me call your attention to this one exception. It is contained in the first subdivision of section 98, and that subdivision provides for an arrest in a case where a debtor leaves or attempts or intends to leave the district with intent to defraud his creditors. Now, it would not be sufficient in such a case to allege simply that the debtor was about to leave the Territory——

Mr. BARTLETT. May I interrupt the gentleman?

Mr. TOMPKINS. I only have five minutes. The chairman of the committee has requested me to state——

Mr. BARTLETT. I wish to suggest to the gentleman that his statement does not conform to the language of the bill.

Mr. TOMPKINS. The chairman of the committee [Mr. WARNER] has requested me to state the views of the committee in reference to this chapter, and in order to do that in the limited time which I have I can not be interrupted.

Mr. BARTLETT. Very well.

Mr. TOMPKINS. This first subdivision is the only provision of this chapter which differs materially from the statutes of most of the States of the Union. It provides that an arrest may be made where the debtor intends to leave the Territory with intent to defraud his creditors.

Mr. BARTLETT. Will the gentleman allow me?

Mr. TOMPKINS. I decline to yield.

Mr. BARTLETT. The gentleman does not desire to mislead the House, and that is not the statement of the bill.

The CHAIRMAN. The gentleman from New York declines to yield.

Mr. TOMPKINS. It would not be sufficient, to secure an order of arrest, to allege simply that the debtor intended to leave the Territory with intent to defraud his creditors. It would be necessary, under the construction of similar statutes in all the States and Federal courts, to set forth in the affidavit facts from which the court could say that there was such intent.

For instance, in our State an attachment against the owner of property may be procured upon proof that the debtor intends to leave the State with intent to defraud his creditors; but the courts have held over and over again that it is not sufficient to make the bare allegation. Facts must be stated in the affidavit from which the courts can say, before a writ of attachment is issued, that such is the intent of the debtor. The same construction would be placed upon this——

Mr. GILBERT. How is the insolvent debtor to be discharged?

Mr. TOMPKINS. Where?

Mr. GILBERT. Under that code. Is there any provision for it at all?

Mr. TOMPKINS. I do not understand the gentleman's question.

Mr. GILBERT. Under the State statutes there are certain regulations by which an insolvent debtor can be exonerated from arrest and released.

Mr. TOMPKINS. After arrest?

Mr. GILBERT. After a certain time. What is the provision here?

Mr. TOMPKINS. That is not germane to this subject.

Mr. GILBERT. I think it is.

Mr. TOMPKINS. No; the question here is as to the right to arrest. The other has reference to the right to be discharged from arrest.

Mr. GILBERT. That is what I wanted to know.

Mr. TOMPKINS. Now, the purpose of this provision is simply to authorize arrest to be made where it appears to the satisfaction of the court, upon the plaintiff's papers, that he intends to leave the Territory with the intent to defraud his creditors. Whether there is such an intent or not is for the court to determine upon the facts presented. A mere allegation of fraud would not be sufficient; but it occurred to me, and it occurred to the committee, that in a wide territory, with a floating and shifting population, of all classes, just such legislation as this is necessary; that it is wiser and more prudent to authorize an arrest to be made, where the court is satisfied that there is a clear intent to defraud, than to leave the debtor to the mercy of a mob and mob law. In other words, it is better to arrest and to hold a person until the rights of the parties interested can be adjudicated than to permit fraud to be avenged by mob law. There is such a law as this found in the statutes of some of the States.

Reference has been made to the fact that arrest is permitted in action for damages for breach of promise of marriage. That is not a new provision. It is a provision in the statutes of nearly all the States. I know it is in the State of New York.

Mr. HENRY C. SMITH. Will the gentleman permit me to ask him a question?

Mr. TOMPKINS. Certainly.

Mr. HENRY C. SMITH. I find on page 72, under the head of "Second:"

> The affidavit may be either positive or upon information and belief.

Mr. TOMPKINS. Read the next clause.

Mr. HENRY C. SMITH (reading)—

> But if the latter, it shall state the nature and sources of the information upon which this belief is founded.

Now, in the face of that, how do you claim that the affidavit must state on legal evidence?

Mr. TOMPKINS. I am basing my statement upon the construction of the statute of the State of New York of a similar character. In the statute of the State of New York——

Mr. HENRY C. SMITH. Then a party could be arrested on a newspaper publication.

Mr. TOMPKINS. By the statutes of the State of New York, in reference to attachment of personal property, there is just such a provision—that the affidavit may be upon information and belief; but where it is upon information and belief, the source or sources of the information must be stated, and then the court must determine from the facts stated, from the information given, and from the source of the information, whether there is sufficient cause for believing that fraud has been committed or attempted.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HENRY C. SMITH. May I ask the gentlemen one more question?

The CHAIRMAN. The Chair will state to the gentleman from Georgia that his amendment has not reached the Clerk's desk.

Mr. BARTLETT. I have an amendment which I will send up. In addition to the amendment, I move to strike out the last word.

Mr. LLOYD. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LLOYD. I desire to know when will be the proper time to move to strike out the chapter on arrest and bail?

Mr. HENRY C. SMITH. On the subject of debt.

The CHAIRMAN. The Chair will state, in his opinion, without unanimous consent it would not be in order to strike out any portion that has been read, as in this bill the practice has been to proceed by paragraph and not by section, and a complete paragraph has been read.

Mr. ROBINSON of Indiana. Only three lines have been read.

The CHAIRMAN. The question is on the amendment.

Mr. TAWNEY. A parliamentary inquiry.

The CHAIRMAN. The gentleman from Missouri asked a parliamentary inquiry, and will state it.

Mr. LLOYD. My question is, When would be the proper time to strike out the chapter? Is it in order now to move to strike out the whole chapter?

The CHAIRMAN. The Chair is of the opinion that a motion would be in order to strike out the paragraph read. As the Chair now understands, it is subject to amendment, not having been passed.

Mr. ROBINSON of Indiana. The Chair is certainly in error about that.

The CHAIRMAN. The committee has not passed it. There is an amendment pending to strike out the last word.

Mr. ROBINSON of Indiana. Section 98, commencing on page 72, has not been read; but only three lines.

The CHAIRMAN. The committee will be in order. It is impossible to transact business in the confusion.

Mr. LLOYD. In order to get at this matter, I move to strike out chapter 12, except the first section:

> No person shall be arrested in action at law except as provided in this section.

The CHAIRMAN. The Chair would say to the gentleman from Missouri that without unanimous consent the motion is not in order. It is not in order to strike out a paragraph or section that has not been read without unanimous consent.

Mr. LLOYD. I ask when will be the time to move to strike out? I would like to ask unanimous consent, if it is the proper thing to do, to move to strike out the whole chapter except these first three lines.

Mr. ROBINSON of Indiana. Pending that request——

The CHAIRMAN. The gentleman will suspend so that we may

dispose of one question at a time. The Chair would reply to the gentleman from Missouri, to fully answer the parliamentary inquiry, that there is an amendment pending, a formal amendment, to the first subdivision of section 98. It would be in order to move to strike out that paragraph after it has been perfected; or, in other words, after the amendment pending has been disposed of. In the meantime the Chair would state to the gentleman that the gentleman from Georgia had offered an amendment, which has not reached the desk.

Mr. BARTLETT. I have; but in order——

The CHAIRMAN. Will the gentleman from Georgia kindly answer the question of the Chair? Did the gentleman from Georgia offer an amendment to the paragraph just read?

Mr. BARTLETT. No, sir; except to strike out the last word.

Mr. WILLIAM E. WILLIAMS. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WILLIAM E. WILLIAMS. After reading the chapter section by section would it be in order to move to strike out the entire chapter?

The CHAIRMAN. The Chair is of opinion without unanimous consent it would not be in order. The Chair has stated that it would only be in order to strike out the section paragraph by paragraph as read.

Mr. KING. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. KING. When a chapter is devoted to one particular subject, so that the elimination of one paragraph or one section in that chapter could not be accomplished without mutilating and destroying the legal and proper effect of the entire chapter, is it not possible to strike out the entire chapter in one motion?

The CHAIRMAN. The Chair has already stated that he thinks it would not be.

Mr. GROSVENOR. I would like to be heard, Mr. Chairman.

The CHAIRMAN. The Chair will hear the gentleman from Ohio.

Mr. GROSVENOR. It seems to me the common sense of the situation must be that when a chapter is devoted to a single subject, and where striking out one paragraph, as is apparent here, would leave unintelligent the action of the House, that this chapter ought to be treated by the Chair as a paragraph, and at the conclusion of it, when the committee has made its amendment—as we call it, perfected the original text—it seems to me that a motion to strike out the entire chapter is proper.

The CHAIRMAN. That is a question for the committee and not for the Chair. The Chair ruled in accordance with the rule of the House. The practice is well settled and understood that you can not without unanimous consent strike out an entire chapter at one time. After reading by paragraphs or section you can not go back to a paragraph that has been read, but it is in order only to strike it out by paragraph or section.

Mr. GROSVENOR. Then the Chair will see that the committee runs this risk: To strike out one of these paragraphs as it is read might disorganize the entire chapter.

The CHAIRMAN. That is a question for the committee and not for the Chair.

Mr. LLOYD. Mr. Chairman, I ask unanimous consent that we may read this chapter paragraph by paragraph, and at the conclusion of it we may vote on the proposition to strike it all out.

Mr. TAWNEY. If you do that and do not strike out the objectionable paragraphs, they are beyond amendment.

The CHAIRMAN. The gentleman from Missouri has asked unanimous consent that chapter 12 be read paragraph by paragraph, and that at the conclusion of the reading of the chapter it be in order to make a motion to strike out the entire chapter.

Mr. LLOYD. Mr. Chairman, I would like to change that a little to make it more satisfactory to the committee.

The CHAIRMAN. The gentleman can modify his request.

Mr. LLOYD. I ask unanimous consent that I may now make a motion to strike out the chapter.

Mr. TOMPKINS. I object.

The CHAIRMAN. Objection is made.

Mr. BARTLETT. Mr. Chairman, I move to strike out, in line 2, after the word "action," all the words in lines 2 and 3 on page 70. The section as read by the Clerk reads:

No person shall be arrested in a civil action at law except as provided in this section. The defendant may be arrested in the following cases——

The CHAIRMAN. Will the gentleman reduce his amendment to writing and send it to the Clerk's desk?

Mr. BARTLETT. I think the Clerk can get my amendment. I move to strike out all in section 98, in lines 2 and 3, after the word "action."

The CHAIRMAN. Does the gentleman move to amend the committee amendment?

Mr. BARTLETT. I move to strike out, in lines 2 and 3, page 70, all after the word "action."

The CHAIRMAN. Does the gentleman from Georgia desire to amend the amendment of the committee? Otherwise his motion would not be in order.

Mr. BARTLETT. I thought the committee amendment had been adopted.

The CHAIRMAN. No; the committee amendment is still pending. The question will be on the committee amendment to the paragraph just read.

Mr. ROBINSON of Indiana. Section 98, Mr. Chairman, has not been read. It covers and includes portions of pages 70 to 72, and orderly procedure would be to complete the reading of the paragraph before the amendments were entertained.

The CHAIRMAN. The Chair will say to the gentleman from Indiana that in accordance with the rule of the committee, established before we commenced, it was provided that at the conclusion of each paragraph the committee amendments should be disposed of, rather than wait until the section is read.

Mr. ROBINSON of Indiana. But the paragraph has not been read; only the first three lines of it. The subdivisions are a portion of the paragraph, and the paragraph extends to line 72. We have gone out of the usual and orderly procedure by not completing the entire section. The object of the gentleman from Georgia can be accomplished by reading the complete section.

Mr. BARTLETT. The only thing I want is to be in time with my amendment—not to be cut off.

Mr. ROBINSON of Indiana. But the gentleman recognizes the force of what I say and the correctness of the rule.

The CHAIRMAN. The Chair is of opinion that it is only necessary for the Clerk to read the bill paragraph by paragraph, if thereby the sense is plain and the paragraph is complete in itself.

Mr. BARTLETT. Does not the Chair hold that this is an independent paragraph?

The CHAIRMAN. The Chair has so held for the purpose of disposing of this question.

Mr. BARTLETT. Then I move to strike out in this paragraph all after the word "action," in lines 2 and 3, so that the section will read "no person shall be arrested in any civil action."

Mr. COWHERD. I wish to appeal to the chairman of the committee to let us vote on this proposition, which involves the whole chapter. It will save a good deal of time. If this proposition be voted down, we can then go on to perfect the chapter.

Mr. ROBINSON of Indiana. If we reject the first section it will destroy the entire chapter.

The CHAIRMAN. The question will be first taken on the amendment of the committee.

The amendment was agreed to.

Mr. BARTLETT. Now, I move to strike out all after the words "at law" down to and including the word "section;" so as to read, "no person shall be arrested in any civil action."

Now, Mr. Chairman, replying to the gentleman from New York, who was somewhat disposed to compare, by way of criticism, New York and Georgia, I am not disposed to enter into any such comparison at this time, except to say that Georgia has advanced far enough and has been intelligent enough to heed the demands of humanity and Christianity and to abolish all imprisonment for debt; and as a representative of Georgia I stand here to-day to vote against any proposition looking to imprisoning a man for debt.

The gentleman said that this bill did not go further than to provide for the imprisonment of a person who proposed to remove from the district with the intention of defrauding his creditors; but if he had examined the next line he would have been able to state to the House that the bill, in addition to permitting a man to be arrested when he proposes to remove beyond the district in order to defraud his creditors, or when the action is for injury to person or character or the wrongful detention or converting of property, goes much further. In enumerating these different cases for which the debtor may be imprisoned, you permit the institution of an action by which you may incarcerate a man upon his failure to obtain bail in nearly every instance in which litigation in this country may arise.

Hence, Mr. Chairman, I move to amend so as to provide that no person in the Territory of Alaska shall be arrested in any civil action. I desire this amendment adopted for the purpose of announcing the proposition that after we have put upon the statute book the bankruptcy law which gives to the creditor every process of law which he ought to have to collect his debt, we do not propose to institute in addition this harsh and cruel process which the humanity and Christianity of the enlightened world have demanded shall be abolished.

Mr. TONGUE. Will the gentleman yield for a question?

Mr. BARTLETT. Yes, I yield to the gentleman for a question.

Mr. TONGUE. Will the gentleman tell me how a creditor would proceed to get a debt from his debtor provided the debtor had $10,000 in his pocket and was about to leave Alaska, and told him to go to Halifax to get his debt?

Mr. BARTLETT. I presume he would have to go to Halifax to get it. [Laughter.] Mr. Chairman, I do not care what may be the supposition of people as to what ought to be done with

debtors. I am willing to put upon this statute book a provision that shall permit you, solely in case of fraud, to arraign at the bar of a court and to require bail for the man who committed the fraud; but I am not willing to put upon the statute books of this Government, by my vote, a provision which permits you, in every case of action for injury to person or character or for injury to or a wrongful detention of personal property, to arrest a man and have him put in jail, and let him stay there until he rots, or until the courts shall determine whether or not he is liable.

It goes further in an effort to recover a fine or a penalty or on a promise to marry or for money received, in section 2, line 11 of page 71 of this bill. I admit that there are in this bill instances which, if you pick them out, might authorize us to pass a law permitting process to issue for the arrest and the detention of the party. For instance, where the debtor attempts fraud, where the person occupied a fiduciary capacity and puts the money into his pocket; but gentlemen must remember that this is a matter which the enlightened intelligence of the Committee on the Revision of the Laws has induced them to report, and to test the sense of the House I have offered the amendment.

I appeal to this House and to the humanity of it, and to the Christianity of it, and to the wisdom of it, in the end of the nineteenth or the beginning of the twentieth century, not to put upon our statute books a law which permits in almost every case of an ordinary civil action, for money had and received, or on a promise of marriage, or for similar cases, to imprison the debtor. This would simply encourage creditors and plaintiffs in nearly every case to resort to and invoke the process of the court to arrest the debtor or defendant to enforce their claim and collect their debts, and would in the end amount to imprisonment for debt. I hope the House will not put the unfortunate debtor or litigant in Alaska at the mercy of the creditor or the plaintiff. I insist upon my amendment and sincerely urge its adoption.

Mr. GROSVENOR. Mr. Chairman, I do not like to do anything that will delay the progress of this very important and indispensable bill through the House of Representatives, but I am unwilling to vote for a measure that contains the provisions of this bill in relation to arrest and bail. I may not be able to state it as eloquently as the gentleman from Georgia [Mr. BARTLETT] has, but I believe the genius of this age has traveled far beyond the barbarities of this sort of legislation and this sort of jurisprudence.

I do not stop to inquire now about the enormity of a provision to arrest a man on a charge of breach of promise of marriage. I hope that if this does go into Alaska, it may be found, although I am unable to state the fact about it, that it is the only spot over which the American flag floats in which such a damnable statute as that exists. Just think now of the operation of that law. A breach of promise is alleged, and the party is arrested, and if you will follow out the terms of this statute you will find that it is next to impossible for the defendant to get out of jail until the fair plaintiff sees fit to let him out upon some compromise that takes his money or his life, as the case may be.

A MEMBER. Or he marries the woman.

Mr. GROSVENOR. Or he marries the woman. Now, in cases of bastardy I am in favor of very strong measures, but in case of a simple breach of promise I do not believe in arresting either party, and I do not believe in any of the provisions of this section except those which are totally unnecessary. Let me read one of the sections of this enactment. Here is one of the cases on which arrests and bail may be had:

In an action for a fine or penalty—

Now, on a fine you may issue a warrant and arrest the party. That is all right. Why put it into this statute and call it a debt?

or for money received—

Now, that is the ordinary action for debt.

or for property embezzled—

If a man is an embezzler he can be arrested by a State warrant and prosecuted. There is no objection to that, but you do not need it in this section, and, therefore, the right thing to do is to strike out the whole chapter.

or fraudulently misapplied or converted to his own use, by a public officer, or by an attorney, or by an officer or agent of a corporation—

That is still embezzlement.

or by an officer or agent of a corporation in the course of his employment as such, or by any factor, agent, broker—

That is still embezzlement.

or for any misconduct or neglect in office, or in a professional employment.

"Any misconduct or neglect in office or in a professional employment!" A party has employed a lawyer, and he says his lawyer was guilty of misconduct. You have all heard it said a thousand times. All the party has to do is to file his affidavit, arrest the lawyer, and put him in jail. The same of a doctor, the same of a preacher, the same of anybody who is a professional man and who takes an employment.

Mr. BARTLETT. May I interrupt the gentleman?

Mr. GROSVENOR. Certainly.

Mr. BARTLETT. And in suits for personal property, under this bill?

Mr. GROSVENOR. Replevin or trover.

Mr. BARTLETT. And if the man is not in possession of the property.

Mr. GROSVENOR. Certainly.

Mr. BARTLETT. And has never had it, yet if he can not give bond he has got to go to jail and lie there until the case is tried.

Mr. GROSVENOR. That is what it provides.

Mr. BARTLETT. And there is no provision here for the court to try the issue whether he was in possession of the property.

Mr. GROSVENOR (reading)—

Third. In an action to recover the possession of personal property unjustly detained.

Well, any retention of somebody else's property is unjust. Therefore, if my friend has a horse that I think I ought to have, instead of the action of replevin, which is world-wide and which everybody understands, I will go and arrest him and put him in jail because, forsooth, he contends that the horse belongs to him.

Mr. DAYTON. If the gentleman will read the whole section, he will see how that is qualified.

Mr. GROSVENOR. I do not want any qualification of such a statute as that.

Mr. BARTLETT. Suits for injury to person or character embrace almost every kind of personal action that could possibly arise.

Mr. GROSVENOR. The gentleman from West Virginia suggests that I read the qualification.

When the property or any part thereof has been concealed, removed.

I have a horse that I claim to be mine, and I have removed it. I have ridden him away; I have sold him.

Mr. DAYTON. Concealed him.

Mr. GROSVENOR. Or removed. It is in the disjunctive. I have removed him, as I claim I have a right to do. It is said that this is an attempt to transmigrate the statutes of Oregon and to put them into a colder region, in Alaska. I challenge the gentleman or anyone else to show me such a statute outside of Oregon. Where is it? What State of this Union ever said that in an action of trover or replevin, or for the value of personal property, because I have happened to remove it somewhere, or concealed it, perchance, I may be arrested and put in jail, when I claim the property is mine?

Mr. WEEKS. Half the States of the Union have such a law as this to-day.

Mr. GROSVENOR. I deny it; and stand by the States.

Mr. TOMPKINS. New York has a similar statute.

Mr. WEEKS. Half the States of the Union have similar statutes.

Mr. GROSVENOR. Then, gentlemen, let us do just one thing more to make it complete. All the balance of this statute is an enactment that lays the foundation in New York, in Ohio, in Indiana, and in Iowa of an attachment.

Mr. CRUMPACKER. Indiana has no such statute as this.

Mr. GROSVENOR. Indiana has no such statute, and Ohio has no such statute.

The CHAIRMAN. The time of the gentleman has expired. Debate on this is exhausted.

Mr. TAWNEY. I move to strike out the last two words.

The CHAIRMAN. The gentleman from Minnesota is recognized for five minutes.

Mr. TAWNEY. Mr. Chairman, I find on page 72 the mode of procedure in order to secure an arrest and imprisonment is equally if not more objectionable than the specific acts for which a man may be arrested. Suppose a debtor is about to leave a certain district in good faith. His creditor knows that he is about to go away, files an affidavit not stating what he personally knows, but stating upon his information and belief that this man is about to leave the district for the purpose of defrauding his creditors, and upon that information, when so filed, the court is obliged to issue the writ for his arrest.

Mr. TOMPKINS. Almost every State in the Union has a provision that a man may be arrested on information, but he has to give the source of his information.

Mr. TAWNEY. I do not know whether they have or not. I do know that the person seeking the warrant under this bill must state the source of his information, but nevertheless he states it on his information and belief, and that alone condemns it. I do not believe that one-half of the States of the Union the gentleman from Michigan cites, or one-tenth of the States of the Union, have a statutory provision whereby you can even temporarily deprive a citizen of liberty upon the information of any other man. I know there is no provision of that kind in the State I have the honor in part to represent, and I do not believe there is one-tenth if there are any of the States that permit imprisonment for debt upon information and belief or permit any man to deprive his fellow-citizen of liberty merely upon an allegation which is

founded only on information which he has received from some other source. And that alone, Mr. Chairman, is sufficient to condemn this whole chapter from beginning to end; and I trust that every paragraph of it will be stricken out.

Mr. BARNEY. I move to strike out the last three words. I desire to call the attention of the committee to the provision giving a cause of arrest, which I undertake to say does not exist in the laws of any State in this Union. It is found in the second paragraph on page 71:

In an action for a fine or penalty, or on a promise to marriage, or for money received.

It is followed by "for property embezzled." As it appears in the provision, a man may be arrested and held to bail in an action for "money had and received," for this clause does not have any sense in connection with money "received by embezzlement." It is simply in a civil action for "money had and received" that he may be held for bail in the Territory of Alaska.

I do not know every provision of law that they have in the State of New York nor in every State of this Union, but I say God help any State in America if it has a provision in its statutes that a man can be arrested and imprisoned simply for money had and received; and that is what this law contains. Now, I do not think any man upon this floor can stand up and defend any such provision as that, as it is simply a reenactment of the old law of imprisonment for debt. Rather than have that done, I should be in favor of striking this whole chapter from the code. I had supposed that every State in this Union had abolished imprisonment for an ordinary debt, and certainly it ought not to be revived in our code for the district of Alaska.

Mr. TOMPKINS. Mr. Chairman, I hope the motion made by the gentleman from Georgia will not prevail, because if it does it will nullify the entire chapter. There are many provisions in this chapter which certainly ought to be enacted. It may be some of the provisions, some of the sections, or some parts of the sections, should be stricken out; but it seems to me that we ought to take up each section in its order and consider it and pass upon it separate and distinct from each other. There are not five States in the Union, Mr. Chairman, that have not some provision or provisions for arrest and bail in some cases provided for in this chapter. I mean to say that there are not five States in the Union that do not provide for arrest in the majority of the cases provided for in this chapter.

Mr. GILBERT. Can you name a single State in the Union——

Mr. TOMPKINS. Yes, sir; I can name my own State of New York.

Mr. GILBERT. Wait a minute. Can you name a single State in the Union that has a statutory provision of arrest and bail and has no provision by which an insolvent debtor can be released from custody?

Mr. TOMPKINS. There should be such a provision.

Mr. GILBERT. There is none in this.

Mr. TOMPKINS. We are not discussing that. Attention has been called by the gentleman from Ohio and the gentleman from Georgia to some provisions of this chapter. The claim is made that there should not be a writ of arrest in an action for injury to person or character. Now, I dare say there are very few, if any, States in the Union where an order of arrest can not be procured in an action for injury to property or character.

Mr. COWHERD. I can name you one.

Mr. TOMPKINS. For malicious prosecution, assault and battery. That is the class of cases in most of these provisions—injuries to person and character. I dare say in most of the States of the Union, in cases of libel, slander, malicious prosecution, and arrest and false imprisonment, an order of arrest may be procured. That is what this provision means, and nothing more.

Mr. TAWNEY. Can any order of arrest be procured on information and belief in any State in the Union?

Mr. TOMPKINS. In these cases the knowledge must be personal to the plaintiff. In the cases that I have mentioned the facts are only within the knowledge of the party. There are cases where fraud is alleged, where information must be relied upon, and if it be reliable and material, may guide the court in determining whether or not fraud has been perpetrated or attempted.

Mr. WILLIAM E. WILLIAMS. Will the gentleman excuse me if I ask him a question?

Mr. TOMPKINS. Certainly.

Mr. WILLIAM E. WILLIAMS. Is it not true that in most of the States the commissioner, or justice of the peace, requires witnesses to be brought before him before he issues the warrant?

Mr. TOMPKINS. In criminal prosecutions.

Mr. WILLIAM E. WILLIAMS. Well, why is not the reason greater in this case before a man can be arrested for debt?

Mr. TOMPKINS. You are dealing with a question which has been considered by legislatures and constitutional conventions in nearly all of the States of the Union. Similar laws to this are upon the statute books of most every State.

Mr. WILLIAM E. WILLIAMS. Mr. Chairman——

Mr. TOMPKINS. I refuse to yield further. I want to call the attention of the committee to this provision. The gent'eman says, Who ever heard of an order for arrest and a warrant issued in a case of breach of promise of marriage? I have, and I dare say in three-quarters of the States of the Union there is a provision, where an action is commenced by a female against a man for breach of promise of marriage, that an order of arrest may issue. The arrest and imprisonment of the person is not as a punishment, but he is arrested and required to give bail so that he will be amenable to the process of the court that may be issued to enforce the judgment in the action. That is the law in the State of New York; it is the law of the State of New Jersey, and in many States, to my personal knowledge. I might go through every provision of this law and call attention to the fact that they have a similar law in many States.

Mr. BARNEY. How about "money had and received?"

Mr. TOMPKINS. I think that ought to go out.

Mr. WARNER. Mr. Chairman, this chapter is copied verbatim from the laws of Oregon, and it has been in force in Alaska since 1884, and has been perfectly satisfactory to the law-abiding people of that district. It does not provide for the arrest and imprisonment for debt; it does not purpose to do anything of that kind; but it provides that a person who has fraudulently contracted a debt, or is fraudulently attempting to beat his creditor out of his money, or who is an officer and has received public moneys and refuses to pay them over may be arrested and imprisoned until he gives bail and gets out in that way.

It also provides for the arrest in an action for breach of promise of marriage, but that is common to almost every State in this Union. This chapter uses different terms. In my State, and almost every other State, instead of saying "arrest and held to bail," they use the term that a writ of ne exeat may be issued, and the man can be restrained.

Let us read the first section of this chapter:

No person shall be arrested in any civil action except as provided in this section. The defendant may be arrested in the following cases:

First. In an action for the recovery of money or damages on a cause of action arising out of contract, when the defendant is about to remove from the district with intent to defraud his creditors, or when the action is for an injury to person or character, or for injuring or wrongfully taking, detaining, or converting property.

He may be arrested because he is about to remove from the district for purposes of defrauding his creditors.

Second. In an action for a fine or penalty, or on a promise to marry, or for money received, or for property embezzled or fraudulently misapplied or converted to his own use by a public officer, or by an attorney, or by an officer or agent of a corporation in the course of his employment as such, or by any factor, agent, broker, or other person in a fiduciary capacity, or for any misconduct or neglect in office or in a professional employment.

That is, where the moneys are had and received by a public officer.

Mr. COWHERD. A promise to marry by a public officer?

Mr. WARNER. No.

Mr. COWHERD. It is all in the same section.

Mr. WARNER. It is not because he holds the money, but because he has committed substantially a crime in appropriating the money to his own use. But let us go further. This statute provides that the person causing the arrest shall give a bond on which he shall be liable for all damages.

Mr. TAWNEY. A bond in the sum of $100!

Mr. WARNER. Not less than $100. The gentleman from Minnesota would probably reduce it to $50.

Mr. TAWNEY. I would wipe it all out.

Mr. WARNER. A man can get out of arrest under this law easier than in any State in the Union. It is a law they need up there on account of the peculiar character of the people who go to that country.

Mr. GROSVENOR. Will the gentleman allow me to ask him this question?

Mr. WARNER. Yes.

Mr. GROSVENOR (reading)—

Second. In an action for a fine or penalty, or on a promise to marry, or for money received, or for property embezzled or fraudulently misapplied or converted to his own use by a public officer, or by an attorney, or by an officer or agent of a corporation in the course of his employment as such, or by any factor, agent, broker, or other person in a fiduciary capacity, or for any misconduct or neglect in office or in a professional employment.

The gentleman says that all relates to a public officer.

Mr. WARNER. The last part of it.

Mr. GROSVENOR. Why one part more than another? According to the gentleman's construction the reading of the section is: "In an action on a promise to marry by a public officer, or by an attorney, or by an officer or agent," etc. [Laughter.] That is the construction to which the gentleman is driven.

Mr. WARNER. There is where the money consideration comes in. The provision does not contemplate imprisonment for debt, but imprisonment where a man has obtained money fraudulently and applied it to his own use.

Mr. GROSVENOR. After the word "penalty" the language goes on: "On a promise to marry," and then a comma; "or for money received," and then there is another comma; "or for property embezzled or fraudulently misapplied or converted to his own use by a public officer," etc. The gentleman says that the clause "for money received" applies to a public officer; then the "promise to marry" applies also to a public officer.

Mr. WARNER. No; nothing of the kind.

Mr. GROSVENOR. I will refer that to any master of composition on earth.

Mr. WARNER. I will submit it to any one of the reading public of the United States.

Mr. GROSVENOR. I am willing to submit it to the gentleman himself.

Mr. WARNER. When this bill is enacted as a law it will be submitted to the courts, and they will pass upon it.

Mr. GROSVENOR. I hope it will never be enacted.

Mr. WARNER. This language has been repeatedly construed by the courts of Oregon, and there can be no question about it.

Mr. WILLIAM E. WILLIAMS. Mr. Chairman, the committee was not unanimous in favor of this chapter. I believe I understood the chairman of the committee to state that members who opposed it in committee favor it now. I opposed it in committee, and I oppose it here to-day. I believe that if you will read this chapter from beginning to end you will find it to be one of the most exacting statutes ever enacted. There is no conceivable indebtedness for which a man may not be arrested and placed under bail, under the provisions of this section.

Gentlemen have said that in some of the States of the Union there are statutes providing for arrest for debt. I can speak for Illinois and neighboring States. In the laws of Illinois you will find no section or chapter similar to this. In that State a man can not be arrested for nonpayment of indebtedness except upon a showing, on examination of witnesses, which makes it almost conclusive that an innocent man is not to be deprived of his liberty, and that the proceeding is not instituted for the purpose of extortion or enforcing a debt against innocent persons. We have a statute against invoking the criminal code to enforce civil rights. This Congress has provided a criminal code for Alaska which furnishes ample remedy in cases of this kind.

We here undertake, in addition to the criminal code which has been provided, to pass a civil statute to enable men to enforce their civil rights, imposing a kind of criminal procedure against men who unfortunately are unable to pay their debts. I believe that in Alaska if men want to extend credit to strangers, or to the character of men indicated by the chairman of the committee, who go there and abuse their credit, such creditors ought to take their chances and ought not to have the benefit of a statute like this—to enable men to practice extortion and enforce contracts which otherwise they could not enforce.

Some of the provisions of this chapter may be all right; but when you seek to imprison a man because you desire to recover damages on a cause of action arising out of a contract, or because the defendant is about to remove from the district with the intent to defraud creditors (where an attachment would be the proper remedy), or because the action is on account of an injury to person, or property, or character (where tort would be the proper remedy), or for injuring, or wrongfully taking, detaining, or converting property (where replevin or trover would be the proper remedy), and in numerous other cases here mentioned, where you undertake to enforce civil rights by provisions like these, you are depriving men of liberty simply upon suspicion; and all that a man has to do in order to compel another to pay his debts is to make an ex parte affidavit before the nearest commissioner and secure a capias for his arrest and drag him a distance of a hundred or perhaps a thousand miles for trial, denying him bail unless perchance he has bondsmen at hand; and the man who makes the ex parte affidavit has only to give bond for $100 damages, which he can always afford to do, because he believes that the man from whom he is endeavoring to enforce payment would, rather than go to jail, put his hand into his pocket or get some friend to advance him the money to pay the debt. This is simply a means of enabling men to collect bad debts. I propose for one to vote against this chapter, and I hope the opportunity will come to strike out the whole chapter.

Several members rose.

Mr. GRAHAM. I make the point of order that debate upon this amendment is exhausted.

The CHAIRMAN. The Chair sustains the point of order. The question is on the amendment of the gentleman from Georgia [Mr. BARTLETT], to strike out all after "action." in line 2; so as to read: "No person shall be arrested in any civil action."

The committee divided; and there were—ayes 63, noes 21.

Accordingly the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. COWHERD. Now, Mr. Chairman, I appeal to the gentleman again and call attention to the fact that the vital part of the section has been stricken out, so that it will be practically impossible to amend it——

The CHAIRMAN. The Chair will state to the gentleman from Missouri that there is no question pending before the committee.

Mr. LLOYD. I move to strike out the paragraph.

Mr. TOMPKINS. Let me make this suggestion: Inasmuch as the vitals of the chapter have already been stricken out and it is likely that the matter will have to be rearranged by the conference committee, we will not object to a motion to strike out the entire chapter, to save time.

Mr. LLOYD. I move, then, to consider as read and move to strike out the rest of the chapter.

A MEMBER. Ask unanimous consent to do that.

Mr. LLOYD. I ask unanimous consent to do that.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to strike out the entire chapter.

Mr. TONGUE. Mr. Chairman, I object for the moment.

Mr. LLOYD. Except that which has been adopted.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to strike out the remaining portion of the chapter.

Mr. LLOYD. I think I would prefer to strike it all out, if there is no objection.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to strike out all of chapter 12, including the paragraph read. Is there objection?

Mr. TONGUE. Reserving the right to object——

The CHAIRMAN. The gentleman from Oregon objects.

Mr. GIBSON. Regular order.

The CHAIRMAN. The Clerk will read.

Mr. BARTLETT. I move to strike out all from line 4 on page 72 and including line 9 on page 71.

Mr. LLOYD. Mr. Chairman——

The CHAIRMAN. The motion of the gentleman from Missouri, to strike out the words read by the Clerk, has not been disposed of.

Mr. TONGUE. Mr. Chairman, just a word.

Mr. LLOYD. The gentleman from Oregon who objects only objects temporarily, as I understand, until he can make a statement.

The CHAIRMAN. The gentleman from Missouri has the floor.

Mr. LLOYD. I yield to the gentleman from Oregon for two minutes.

Mr. TONGUE. Mr. Chairman, so much has been said about the barbarity of this statute, and the statement has been made so frequently here that no other State has anything like it, that the conclusion, I presume, has been drawn that the people of Oregon have been imprisoning everything and everybody for the last thirty or forty years. I want simply to say that some of these gentlemen who are so vigorous just now in their expressions have never read the statutes of their own States.

This code was taken bodily, practically, from the State of New York, and the State of New York has largely the same code to-day. It has been the law of the State of Oregon since 1860. It has not been barbarous; and while I have practiced under it for thirty years, only once in my life have I ever had occasion to call it into operation, and that was when a man was about to leave the State and refused to pay an honest debt, and he promptly paid it, because he had the money in his pocket. The object of this statute is simply this: This code provides that when judgment has been rendered, if the judgment debtor has property or money that you can not reach by process, he may be brought before the court and examined, and if he is found to possess such property he may be compelled to apply it upon his debt. There is no such remedy under attachment.

Mr. GROSVENOR. Every State in this Union has that remedy.

Mr. TONGUE. The proposition is to strike out all remedy.

Mr. GROSVENOR. Not at all. That is the ordinary procedure in aid of execution; and if the party comes into court and has property anywhere on earth, the court may compel him to produce that property and send him to jail for contempt if he does not.

Mr. TONGUE. The only object of this statute is to detain the defendant until you can apply that remedy. That is all there is to it. He can discharge himself at any time by simply giving bond to be there when the judgment is rendered so that you can apply the other remedy. Now, without this statute a man may have a million dollars in his pocket in Alaska, may start to leave there, may bid defiance to every honest creditor that he has, and you have no remedy.

Mr. NEVILLE. Suppose you arrested him, how would you proceed to find whether he had the money is his pocket or not?

Mr. TONGUE. You proceed to examine him when the judgment is obtained; and you must depend on proof as you would depend on proof in every other case, and the court tries the question.

[Here the hammer fell.]

Mr. BARTLETT. This is not simply on a judgment; it is on any sort of contract. You do not have to wait until you get judgment.

Mr. GAINES. Mr. Chairman, we acquired Alaska in 1866. It

now has about 50,000 white people and about 24,000 natives, and the gentleman from Oregon, who has been so willing to secure the passage of this outrageous law, used this language about those people:

Now, I want to call attention to the fact that in one of the towns of Alaska, Juneau, there are more college graduates than in any other town of its size in the whole United States. * * * The class of people who go to Alaska are the very best there are in the United States.

And yet the gentleman wants to put upon the statutes of that country, that has been outraged by the neglect of Congress here in not giving them better laws, a provision of this kind to be enforced against the very best people in the United States, graduates of our great institutions of learning. It seems to me it is an insult to a people, so much so that in all States, certainly in Tennessee, an anti-imperial, liberty-loving people has no such law.

Mr. TONGUE. Will the gentleman yield for a question?

Mr. GAINES. Yes.

Mr. TONGUE. Not one of these intelligent men whom the gentleman has so magnificently described has complained of the existence of this law or demanded its change.

Mr. GAINES. Why do you want to treat these people more barbarously than you would treat anybody else, when they are such good people?

Now, in 1857 the Supreme Court of the United States, in the case of Leitensdorfer et al. *vs.* Webb (20 Howard, 177), decided a case which arose under a very civil law that General Kearny ordained in establishing a temporary government in New Mexico, by authority of President Polk, and copied almost literally the attachment law of the State of Missouri and sister States in that locality. The existing "rights" remained unchanged "except," says the court, "so far as they were in their nature and character found to be in conflict with the Constitution and laws of the United States or with any regulations which the conquering and occupying authority should ordain." The protection of the Constitution applied at once to the people there. Attachment could issue under this Kearny code—

First. When the debtor is not a resident of this Territory.
Second. When the debtor has concealed himself or absconded or absented himself from his usual place of abode in this Territory, so that the ordinary process of law can not be passed upon him.
Third. When the debtor is about to remove his property or effects out of this Territory, or has fraudulently concealed or disposed of his property or effects, so as to hinder, delay, or defraud his creditors.

And so on.

Civil courts were appointed by General Kearny to enforce this law and the civil code he enacted. Now, there is a statute similar to that in my State and in nearly every State in the Union. That was in New Mexico, under military law at that, and this was the first civil law we enacted there; and yet in Alaska, which we have owned for thirty years and more, where we have established civil courts, where Congress is legislating for the benefit of the people, and where the inhabitants, as it is stated, are the very best people in the United States, it is proposed to impose this barbarous sort of a law contained in this bill.

On page 72 of the bill let me call your attention to a remarkable proposition. I call it particularly to the attention of my friend the gentleman from Ohio [Mr. GROSVENOR]. In line 13, page 72, it says that the plaintiff, when suit is entered, shall enter into a bond of "not less than $100, and equal to the amount for which the plaintiff prays judgment." In my State, and in nearly every State in the Union, I take it, when a man's property is seized, the plaintiff enters into a bond in double the amount for which he asks judgment; but here under this law, and in a land thirty-odd years ours, where they are to seize human flesh—not simply property, but when liberty is taken from the defendant—the very best people in the world—college graduates, people from Oregon, people from all over the country—it is proposed to give bond in half the amount that is required in most of the States of this Union. Mr. Chairman, it seems to me that in this day and time such a law is wholly out of place.

[Here the hammer fell.]

Mr. DAYTON. Mr. Chairman, a great deal of this discussion has involved matters of sentiment, and not, at least, legal practice throughout this country; and some very extravagant statements have, it seems to me, been made in regard to this character of statutes. I undertake to say, and I am sorry to say I did not have the chance to examine the code of the State of the distinguished gentleman from Ohio—but I undertake to say that there are not many of the States of this Union that do not have this or similar statutes, designed to meet extraordinary cases that may arise. The sympathy that we have for the poor debtor is well enough, but the sympathy that we have for the fraudulent, dishonest, embezzling scoundrel who takes another man's money is not well.

A MEMBER. You have the criminal statutes for him.

Mr. DAYTON. We have not the criminal statutes for him. I have known of a man who imposed upon another, borrowed his money, stuffed it in his pocket, and told him he proposed to leave with it. There is no criminal remedy for his conduct.

Mr. TAWNEY. Have you not the common-law remedy?

Mr. DAYTON. That is entirely inadequate. No; we have this law, or its equivalent in the State of Oregon, where they have a code procedure, and this is a code procedure. I want to call the attention of gentlemen to the source of these statutes in the code States. New York is the fountain head of the code procedure. It was the first State that started it, and here from the New York statute, as the fountain head of all these others, we find this statute substantially that we are preparing for the district of Alaska. Now, the New York code of procedure, and it was amended as late as 1877, provides:

2. A defendant may be arrested in an action, as prescribed in this title, where the action is brought for either of the following causes:
1. To recover a fine or penalty.
2. To recover damages for a personal injury; an injury to property, including the wrongful taking, detention, or conversion of personal property; breach of a promise to marry; misconduct or neglect in office or in a professional employment; fraud or deceit; or to recover a chattel where it is alleged in the complaint that the chattel or a part thereof has been concealed, removed, or disposed of, so that it can not be found or taken by the sheriff, and with intent that it should not be so found or taken, or to deprive the plaintiff of the benefit thereof; or to recover for money received or to recover property or damages for the conversion or misapplication of property where it is alleged in the complaint that the money was received or the property was embezzled or fraudulently misapplied by a public officer or by an attorney, solicitor, or counselor, or by an officer or agent of a corporation or banking association in the course of his employment, or by a factor, agent, broker, or other person in a fiduciary capacity. Where such allegation is made the plaintiff can not recover unless he proves the same on the trial of action, and a judgment for the defendant is not a bar to the new action to recover the money or chattel.

Mr. LINNEY. Mr. Chairman, if gentlemen will think about it a minute, there is nothing the matter with this bill except to strike out a comma and place a period in its place in the second section. The gentleman from Ohio, General GROSVENOR, who always commands the respect of every member on this floor, was able to ridicule this bill by calling attention to the fact that it required an officer to perform the function of marriage. Well, now, that is the way the bill is, by mistake. But suppose you strike out the comma after the word "marriage," if gentlemen will look at it, and insert a period, and strike out the word "or," and start then, "Money received, or for property embezzled or fraudulently misapplied or converted to his own use by a public officer," etc.

Then how do we have the section? We have it, Mr. Chairman, exactly founded on the principles that obtain in almost every State in this Union. The gentleman from Tennessee argues, and also the gentleman from Georgia, that this bill provides for arrest for debt. It does no such thing. An action may be founded upon contract, and this auxiliary remedy, Mr. Chairman, is founded upon a tort or fraud committed by the defendant after the beginning of the action. There is no action on the subject of arrests or bail; it is only an auxiliary proceeding where you can not reach the property of a defendant by the ordinary process; but for the fraud or tort of the defendant an order of arrest may issue.

Take, for instance, the first section. It provides for cases where a debt has been contracted fraudulently. Take the other causes of arrest; they provide for cases where a tort has been committed; and I respectfully submit that throughout this bill there is no variation from the principles that have been stated, to wit, that this order of arrest applies when a party is either guilty of a fraud or tort, except one, and that is where he is guilty of a violation of a marriage contract. There is not a member on this floor but what is willing to admit that where a man is guilty of a fraud in a marriage contract he should be put in the penitentiary, much less subject to an order of arrest. I do not care what pressure is brought upon him; if he is guilty of a violation of that contract, there is hardly a State in the American Union that does not provide for his arrest. Why? Because it is more than a contract, it is more than a tort; in fact, it is more than a fraud. It is taking advantage of a woman's weakness founded in affection, betraying her and degrading her, and for that very reason, in many States of this Union, an order of arrest may issue for the violation of that kind of a contract. So that the gentleman is entirely mistaken. The distinguished gentleman from Georgia, who poses as a friend of the poor man, is entirely mistaken when he says this bill provides for arrest for debt. It provides, if the distinguished gentleman will allow me, for an arrest for tort or fraud that he has committed.

It is a very salutory provision. Why? Because it furnishes a kind of spur to quicken the diligence of the people of every State where it exists, along the line of common honesty. When you speak of the poor, my friend, and speak of the bill having a tendency to oppress the poor, there is no man so poor in my State that he can not be honest. There is no State so poor that it does not furnish every subject the full opportunity of existing in the State and at the same time of being honest. That is all this bill provides.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. TAWNEY. A point of order, Mr. Chairman. I submit that debate on this is exhausted.

The CHAIRMAN. The gentleman from Missouri [Mr. LLOYD] has addressed the Chair for the purpose of asking unanimous consent.

Mr. LLOYD. I ask unanimous consent that the remainder of this chapter may be considered as read and that we may vote upon a motion to strike out the chapter.

Mr. TOMPKINS. If I can have two minutes.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to consider the balance of the chapter as read and that the entire chapter be stricken out, and the gentleman from New York [Mr. TOMPKINS] have two minutes. Is there objection?

Mr. DENNY. Reserving the right to object, I want to ask the question whether it is proposed to include the words "no person shall be arrested in any civil action." I will not object providing that part which we have already passed upon, "that no man shall be arrested in any civil action," is not stricken out.

Mr. LLOYD. I except that. My motion is to strike out all after that which has been passed upon, all after the first paragraph; and I yield two minutes to the gentleman from New York [Mr. TOMPKINS].

Mr. TOMPKINS. Mr. Chairman, for the information of the gentleman from Ohio I desire to read from the Ohio statutes:

An order for the arrest of the defendant shall be made by the clerk of the court in which the action is brought, when there is filed in his office an affidavit of the plaintiff, his authorized agent or attorney, made before a judge or clerk of any court of the State, or a justice of the peace, stating the nature of the plaintiff's claim, that it is just, and the amount thereof, as nearly as may be, and establishing one or more of the following particulars:

1. That the defendant has removed, or begun to remove, any of his property out of the jurisdiction of the court with intent to defraud his creditors.

2. That he has begun to convert his property, or a part thereof, into money, for the purpose of placing it beyond the reach of his creditors.

3. That he has property or rights of action which he fraudulently conceals.

4. That he has assigned, removed, disposed of, or begun to dispose of his property, or a part thereof, with intent to defraud his creditors.

5. That he fraudulently contracted the debt or incurred the obligation for which suit is about to be or has been brought.

6. That the money or other valuable thing for which a recovery is sought in the action was lost by playing at any game or by means of a bet or wager.

The affidavit shall also contain a statement of the facts claimed to justify the belief in the existence of one or more of such particulars.

Mr. GROSVENOR. The gentleman has called my attention to that. I want to ask him if anybody has disputed it? Those are for actions all sounding in fraud, all running against the defendant on the ground of fraud.

Mr. TOMPKINS. I make the assertion that there is no cause of action alleged in this bill in which a right to arrest is granted, except for a breach of promise of marriage, where fraud must not be established to the satisfaction of the court before the order of arrest is granted.

Mr. SOUTHARD. Let me call the gentleman's attention to——

The CHAIRMAN. The time for debate upon this matter has expired. The question is on striking out all of chapter 12 which has not been read. The Chair will state that the first subdivision has been read. Does the gentleman from Missouri intend to exclude the first subdivision?

Mr. LLOYD. I move to strike out all after the word "action," in the second line of page 70.

The CHAIRMAN. The question is on agreeing to the motion of the gentleman from Missouri to strike out all of chapter 12 after the word "action," in line 2 on page 70.

The question was taken; and the motion was agreed to.

The Clerk read as follows:

SEC. 139. The marshal or deputy marshal to whom the writ is delivered shall execute the same without delay, as follows:

First. Real property shall be attached by leaving with the occupant thereof, or if there be no occupant, in a conspicuous place thereon, a copy of the writ certified by the marshal.

Second. Personal property capable of manual delivery to the marshal, and not in the possession of a third person, shall be attached by taking it into his custody.

Third. Other personal property shall be attached by leaving a certified copy of the writ, and a notice specifying the property attached, with the person having possession of the same, or if it be a debt, then with the debtor, or if it be rights or shares in the stock of an association or corporation, or interest or profits thereof, then with such person or officer of such association or corporation as this code authorizes a summons to be served upon.

The following amendment, reported by the committee, was read and agreed to:

In the next to the last line of the section strike out "code" and insert "title."

The Clerk read as follows:

SEC. 141. If real property be attached, the marshal shall make a certificate containing the title of the cause, the names of the parties, a description of such real property, and a statement that the same has been attached at the suit of the plaintiff, and the date thereof. Within ten days from the date of the attachment, the marshal shall deliver such certificate to the commissioner as ex officio recorder of the recording district in which such real property is situated, who shall file the same in his office and record it in a book to be kept for that purpose. When such certificate is so filed for record the lien in favor of the plaintiff shall attach to the real property described in the certificate from the date of the attachment, but if filed afterwards it shall only attach, as against third persons, from the date of such subsequent filing. Whenever such lien shall be discharged it shall be the duty of the commissioner as ex officio recorder, when requested, to record the transcript of any order, entry of satisfaction of judgment, or other proceeding of record whereby it appears that such lien has been discharged in the book mentioned in this section. The commissioner shall also enter on the margin of the page on which the certificate is recorded a minute of the discharge, and the page and book where recorded.

The following amendment of the committee was read and agreed to:

In line 4 strike out "suit" and insert "action."

The Clerk read as follows:

SEC. 143. If any of the property attached be perishable, the marshal shall sell the same in the manner in which property is sold on execution. The proceeds thereof and other property attached shall be retained by him to answer any judgment that may be recovered in the action, unless sooner subjected to execution upon another judgment. Personal property mentioned in subdivision 3 of section 139 may be delivered, transferred, or paid to the marshal without suit, and his receipt therefor shall be a sufficient discharge accordingly.

The following amendment reported by the committee was read, and agreed to:

In line 9, strike out "suit" and insert "an action."

The Clerk read as follows:

SEC. 146. If any personal property attached be claimed by a third person as his property, the marshal may summon a jury to try the validity of such claim, and the same proceeedings shall be had thereon with the like effect as in case of seizure upon execution.

The amendment reported by the committee was read, and agreed to, as follows:

Strike out the section.

Mr. WARNER. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. JENKINS reported that the Committee of the Whole on the state of the Union had had under consideration Senate bill 3419 and had come to no resolution thereon.

EVENING SESSION.

Mr. WARNER. I ask unanimous consent that at 5 o'clock this evening the House take a recess until 8 o'clock, and that the evening session adjourn at 10.30 o'clock.

The SPEAKER. Is there objection?

Mr. SHERMAN. I object, unless the request be modified so that the recess shall not be taken until we have finished the consideration of the conference report on the Indian appropriation bill.

Mr. HOPKINS. Also of a bill which I desire to bring up.

Mr. SHERMAN. I have no objection to that.

The SPEAKER. The gentleman from Illinois [Mr. WARNER] modifies his request so as to allow the two bills referred to to be taken up before the recess. Is there objection? The Chair hears none, and it is so ordered.

INDIAN APPROPRIATION BILL.

Mr. SHERMAN. I present the report of the committee of conference on the Indian appropriation bill. I ask unanimous consent that the reading of the report be dispensed with and that only the statement of the House conferees be read.

There was no objection.

Mr. SHERMAN. I simply wish to state that in the bill as now agreed to by the conferees there is an increase, in round numbers, of $700,000 over the amount appropriated last year. As the bill passed the Senate the increase was upward of a million dollars, but in conference nearly half a million dollars was stricken out.

The report of the committee is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7433) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1901, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 29, 40, 61, 62, 64, 65, 68, 72, 73, 80, 81, 87, 89, 90, 91, 93, 103, 108.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 46, 48, 51, 52, 53, 54, 57, 60, 66, 69, 70, 71, 74, 76, 78, 79, 82, 83, 84, 86, 88, 92, 96, 97, 98, 99, 100, 101, 104, 105, 106, 109, 114, 115, 116, 117, 118, 119, 120, 122, 123, and 126; and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: In lieu of the total sum proposed insert "$83,150;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 26, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, amended as follows: On page 21 of the bill, in line 12, strike out "or grazing," and after the word "purposes," in the same line, insert "only;" and the House agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment as follows: After the word "purpose," in line 7 of said amendment, add the following: "*Provided*, That hereafter the clerks of the district courts in the Indian Territory shall account for and pay into the Treasury of the United States all fees collected in excess of $1,000 per year; all settlements to be made in accordance with such rules and regulations as the Attorney-General may prescribe;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the

Senate numbered 45, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$5,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$524,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment as follows: After the word "identified," in line 8 of said amendment, strike out the words "and enrolled;" in line 14 of said amendment strike out the words "they shall" and insert "may:" after the word "allotment," in line 16 of said amendment, insert ": *Provided further*, That all contracts or agreements looking to the sale or incumbrance in any way of the lands to be allotted to said Mississippi Choctaws shall be null and void;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment as follows: Strike out all after the word "That," in line 10 of said amendment, down to and including the word "Secretary," in line 28, and in lieu thereof insert:

"The Secretary of the Interior is hereby authorized, under rules and regulations to be prescribed by him, to survey, lay out, and plat into town lots, streets, alleys, and parks, the sites of such towns and villages in the Choctaw, Chickasaw, Creek, and Cherokee nations, as may at that time have a population of 200 or more, in such manner as will best subserve the then present needs and the reasonable prospective growth of such towns. The work of surveying, laying out, and platting such town sites shall be done by competent surveyors, who shall prepare five copies of the plat of each town site, which, when the survey is approved by the Secretary of the Interior, shall be filed as follows: One in the office of the Commissioner of Indian Affairs, one with the principal chief of the nation, one with the clerk of the court within the territorial jurisdiction of which the town is located, one with the Commission to the Five Civilized Tribes, and one with the town authorities, if there be such. Where in his judgment the best interests of the public service require, the Secretary of the Interior may secure the surveying, laying out, and platting of town sites in any of said nations by contract.

"Hereafter the work of the respective town-site commissions provided for in the agreement with the Choctaw and Chickasaw tribes ratified in section 29 of the act of June 28, 1898, entitled 'An act for the protection of the people of the Indian Territory, and for other purposes,' shall begin as to any town site immediately upon the approval of the survey by the Secretary of the Interior and not before.

"The Secretary of the Interior may in his discretion appoint a town-site commission consisting of three members for each of the Creek and Cherokee nations, at least one of whom shall be a citizen of the tribe and shall be appointed upon the nomination of the principal chief of the tribe. Each commission, under the supervision of the Secretary of the Interior, shall appraise and sell for the benefit of the tribe the town lots in the nation for which it is appointed, acting in conformity with the provisions of any then existing act of Congress or agreement with the tribe approved by Congress. The agreement of any two members of the commission as to the true value of any lot shall constitute a determination thereof, subject to the approval of the Secretary of the Interior, and if no two members are able to agree the matter shall be determined by such Secretary.

"Where in his judgment the public interests will be thereby subserved, the Secretary of the Interior may appoint in the Choctaw, Chickasaw, Creek, or Cherokee Nation a separate town-site commission for any town, in which event as to that town such local commission may exercise the same authority and perform the same duties which would otherwise devolve upon the commission for that nation. Every such local commission shall be appointed in the manner provided in the act approved June 28, 1898, entitled 'An act for the protection of the people of the Indian Territory.'

"The Secretary of the Interior, where in his judgment the public interests will be thereby subserved, may permit the authorities of any town in any of said nations, at the expense of the town, to survey, lay out, and plat the site thereof, subject to his supervision and approval, as in other instances.

"As soon as the plat of any town site is approved, the proper commission shall, with all reasonable dispatch and within a limited time, to be prescribed by the Secretary of the Interior, proceed to make the appraisement of the lots and improvements, if any, thereon, and after the approval thereof by the Secretary of the Interior, shall, under the supervision of such Secretary, proceed to the disposition and sale of the lots in conformity with any then existing act of Congress or agreement with the tribe approved by Congress, and if the proper commission shall not complete such appraisement and sale within the time limited by the Secretary of the Interior, they shall receive no pay for such additional time as may be taken by them, unless the Secretary of the Interior for good cause shown shall expressly direct otherwise.

"The Secretary of the Interior may, for good cause, remove any member of any town-site commission, tribal or local, in any of said nations, and may fill the vacancy thereby made or any vacancy otherwise occurring in like manner as the place was originally filled.

"It shall not be required that the town-site limits established in the course of the platting and disposing of town lots and the corporate limits of the town, if incorporated, shall be identical or coextensive, but such town-site limits and corporate limits shall be so established as to best subserve the then present needs and the reasonable prospective growth of the town, as the same shall appear at the times when such limits are respectively established: *Provided further*, That the exterior limits of all town sites shall be designated and fixed at the earliest practicable time under rules and regulations prescribed by the Secretary of the Interior.

"Upon the recommendation of the Commission to the Five Civilized Tribes the Secretary of the Interior is hereby authorized at any time before allotment to set aside and reserve from allotment any lands in the Choctaw, Chickasaw, Creek, or Cherokee nations, not exceeding 160 acres in any one tract, at such stations as are or shall be established in conformity with law on the line of any railroad which shall be constructed or be in process of construction in or through either of said nations prior to the allotment of the lands therein, and this irrespective of the population of such town site at the time. Such town sites shall be surveyed, laid out, and platted, and the lands therein disposed of for the benefit of the tribe in the manner herein prescribed for other town sites: *Provided further*, That whenever any tract of land shall be set aside as herein provided which is occupied by a member of the tribe, such occupant shall be fully compensated for his improvements thereon under such rules and regulations as may be prescribed by the Secretary of the Interior.

"Nothing herein contained shall have the effect of avoiding any work heretofore done in pursuance of the said act of June 28, 1898, in the way of surveying, laying out, or platting of town sites, appraising or disposing of town lots in any of said nations, but the same, if not heretofore carried to a state of completion, may be completed according to the provisions hereof."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$50,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment as follows: In line 2 of said amendment strike out "such number of;" and in line 4 of said amendment strike out the word "four" and insert "two;" and the Senate apree to the same.

That the House recede from its disagreement to the amendments of the Senate numbered 58 and 59, and agree to the same with an amendment as follows: After the word "available," in line 4 of said amendment No. 58, insert the word "and;" after the word "dollars," in line 5 of said amendment No. 59, insert "in all, the sum of $25,200, reimbursable under the provisions of the act of March 2, 1889," said two amendments to be assembled and stand as one amendment; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment as follows: In line 4 of said amendment strike out "thirty-nine" and insert "three;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment as follows: In line 11 of said amendment, after the word "within," strike out "one year" and insert in lieu thereof "six months."

After the word "identity," in line 12 of said amendment, insert "in such manner as the Secretary of the Interior may prescribe;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment as follows: In line 7 of said amendment, after the word "first," insert "carefully examined and;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment as follows: In line 1 of said amendment strike out all after the word "Interior" down to and including the word "and," in line 7 of said amendment; in line 8 of said amendment, after the word "lands," insert "and improvements;" in lieu of the total sum proposed by said amendment insert "$171,615.44;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$1,440,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment as follows: In line 5 of said amendment, after the word "plant," strike out "two" and insert "one;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$62,050;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment as follows: In lieu of the total sum proposed insert "$54,325;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment as follows: In lieu of the total sum proposed insert "$122,200;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment as follows: After the word "establishment," in line 1 of said amendment, insert ", in the discretion of the Secretary of the Interior;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$7,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: In lieu of the total sum insert "$109,700;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In line 1 of said amendment, after the word "purchase," insert ", in the discretion of the Secretary of the Interior."

In line 3 of said amendment, after the word "dollars," insert "or so much thereof as may be necessary;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 121, and agree to the same with an amendment as follows:

Strike out the matter inserted by said amendment and amend with amendments, as follows:

On page 44, line 7, of the bill, after the word "buildings," insert "and for sewerage, water supply, and lighting plants."

And on page 44, line 7, of the bill, after the word "hundred," insert "and forty."

On page 44, line 8, of the bill, after the word "dollars," insert ", $40,000 of which shall be immediately available;" and the House agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment as follows: On page 55, lines 12 and 13, of the bill, strike out "upon the reservation" and insert "at reservation or industrial schools;" on page 55, line 15, of the bill, after the word "advisable," insert "and the sum of $10,000 is hereby appropriated to enable the Secretary of the Interior to carry this provision into effect;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 125, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and on page 55, line 17, of the bill, strike out the word "such" and insert "unimproved;" and on page 55, line 18, of the bill, after the word "lands," insert "for agricultural purposes;" and the House agree to the same.

That the Senate recede from its amendment numbered 127, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and on page 59, line 16, of the bill, after the word "lands," insert "and all sales and conveyances of lands of deceased allottees by their heirs, which have been duly made and executed by such heirs and duly approved by the Secretary of the Interior, are hereby ratified and confirmed;" and the House agree to the same.

J. S. SHERMAN,
CHARLES CURTIS,
JOHN S. LITTLE,
Managers on the part of the House.

JOHN M. THURSTON,
O. H. PLATT,
JAMES K. JONES,
Managers on the part of the Senate.

The Clerk proceeded to read the following statement of the House conferees:

Statement of the House conferees on the Indian appropriation bill.

The Senate receded from amendments Nos. 29, 40, 61, 62, 64, 65, 68, 72, 73, 80, 81, 87, 89, 90, 91, 93, 103, 108, and 121, leaving the bill in these particulars in the form in which it left the House.

Amendments Nos. 11, 12, 13, 19, 25, 27, 30, 31, 33, 60, 63, 86, 92, 99, and 118 are merely changes in phraseology, without any change in the amount of appropriation.

Amendments 1, 6, 22, 39, 47, 95, 98, 102, 107, 112, 114, and 116 are mere changes in the totals, made necessary by the changes of other amendments, which will be hereinafter explained.

The House receded from amendment No. 2, which provides for the continuance of the Mission Tule River Agency, in southern California. This agency was estimated for in the Book of Estimates for this year, but the House committee believed that the duties could be performed by a superintendent of schools. The Senate committee believed otherwise, and in the opinion of the Indian Office the Senate position was correct. The same statement is true in reference to amendment No. 3, from which the House receded.

The House receded from amendment No. 4 upon the statement that the agent at the Union Agency had been placed under increased responsibilities and duties, in the discharge of which it became necessary for him to furnish a bond many times larger than had heretofore been furnished, and that the giving of this bond had necessitated the expenditure upon his part of about $500.

The House receded from amendment No. 5, which increases by $100 the salary of the agent at Yakima Agency, in the State of Washington.

The House receded from amendment No. 7 upon the statement that the law already clothed the Secretary of the Interior with the authority therein given.

The House receded from amendment No. 8. This amendment seemed necessary in order to overcome a question raised by the accounting officer of the Treasury.

The House receded from amendment No. 9, which permits the commission of citizens, serving without compensation, to expend of the $4,000 appropriated for their expenses a sum not to exceed $300 for office rent, and legalizes the allowance of this sum in former appropriations.

The House receded from amendment No. 10, which authorizes the accounting officer of the Treasury to allow in the accounts of the supervisor of Indian schools $108 expended by him for sleeping-car fare.

The House receded from amendment No. 14. This amendment appropriates $2,696.40, to be placed in the Treasury to the credit of the Choctaw orphan fund in payment for orphan lands unsold in the State of Mississippi.

The House receded from amendment No. 15, by which the Senate struck out the appropriation of $6,000 for employees at the Colville Agency.

The House receded from amendments Nos. 16, 17, and 18, which provided for certain employees for the Crows, these employees being provided for at other sections in the bill.

The House receded from amendment No. 20, by which amendment the Senate decreases the House appropriation for furnishing certain articles for the Crow Indians from $30,000 to $15,000.

The House receded from amendment No. 21, which is a provision inserted by the Senate providing that no part of the appropriation shall be available except on the direct order of the Secretary of the Interior.

The House receded from amendment No. 23, which is a provision inserted by the Senate permitting the payment to the Iowas of Oklahoma $15,000 of the principal of their trust funds now in the Treasury.

The House receded from amendment No. 24, by which the Senate struck out the provision for the salaries of two matrons for the Nez Perces, these employees being provided for in another portion of the bill.

The Senate receded from amendment No. 26, with an amendment which limits the leasing of Indian allotted lands for farming purposes only.

The House receded from amendment No. 28, which is a provision inserted by the Senate as to the filing of chattel mortgages in the Quapaw Agency.

The House receded from amendment No. 32, which was a provision inserted by the Senate providing that the Alsea Indians receiving a certain proportion of the principal sum to their credit in the Treasury should not hereafter participate in the receipt of interest on the sum remaining.

The House receded from amendment No. 34, by which the Senate reduced by $1,000 the appropriation for Joseph's band of Indians.

The House receded from amendment No. 35, by which the Senate increased by $2,000 the appropriation for the Nez Perces Indians in Idaho.

The House receded from amendment No. 36, by which the Senate increases from $10,000 to $20,000 the appropriation for the support and civilization of the Sioux of Devils Lake.

The House receded from amendment No. 37, which reduces by $500 the appropriation for incidental expenses in Colorado.

The House receded from amendment No. 38, which provides for 2 additional clerks at the Union Agency in Indian Territory.

The House receded from amendments Nos. 41 and 42, which together increased the appropriation by $6,000 and provided for employees in the service in Montana. This restores the appropriation stricken out by the House receding from amendment No. 24 in this bill.

The House receded from amendment No. 43, by which the Senate decreases the appropriation for the incidental expenses in Utah from $3,000 to $1,000.

The House receded from amendment No. 44, which increased from $12,000 to $17,000 the appropriation for expenses in Washington. This restores the appropriation stricken out by amendment No. 15.

The House recedes from amendment No. 45 with an amendment. The bill as it passed the House provided for an appropriation of $276,000 for the work of the Dawes Commission. The Senate increased this amount to $616,000, and the amendment as agreed upon provides for an appropriation of $524,000.

The House receded from amendment No. 46, which makes immediately available the appropriation covered by the last item.

The House receded from amendment No. 48. This is a provision inserted by the Senate that the commission may use the funds appropriated in the prosecution of any work required of it by any law.

The House receded from amendment No. 49, with an amendment. This amendment is a provision inserted by the Senate relating to the powers of the Dawes commission as to the enrollment among the Five Civilized Tribes. It carries no appropriation.

The House receded from amendment No. 50, with an amendment. The amendment is set forth in full in the report. It is a provision regulating the survey and platting of town sites in the Choctaw, Chickasaw, Creek, and Cherokee nations.

The House receded from amendment No. 51, which is an appropriation of $30,000, inserted for the support of the Pima Indians in Arizona.

The House receded from amendments Nos. 52, 53, and 54, which amendments together reduce the appropriation from $3,000 to $1,500, and provide for one portable steam sawmill instead of two at the Nez Perces Reservation in Idaho.

The House receded from amendments Nos. 55 and 56. These amendments as passed by the Senate provided for an appropriation of $75,000, to be expended by the Secretary of the Interior in the employment of not to exceed four superintendents of irrigation. The amendment as now agreed upon in conference provides for an appropriation of $50,000, to be expended under the direction of two superintendents of irrigation.

The House receded from amendment No. 57 and from amendments Nos. 58 and 59 with amendments. The three amendments together provide for increase of the appropriation as originally provided in the House from $10,000 to $25,200 for the survey of the lands in the Pine Ridge, Rosebud, and Standing Rock reservations and for clerical work, etc., in the office of the surveyor-general, and provides that the sum thereby appropriated shall be reimbursable under the provisions of the act of March 2, 1889.

The House receded from amendment No. 66. This amendment of the Senate is to carry out the provisions of the act of Congress of 1898 ratifying an agreement made with the Seminole tribe, dated December 16, 1897. By said act it was agreed that the loyal Seminole claim should be submitted to the United States Senate, and that said Senate should make a final determination of the same, and if sustained that the same should be paid within two years. The Senate did investigate the loyal Seminole claim in accordance with the Seminole treaties and agreed upon the sum contained in said amendment.

The House receded from amendment No. 67 with an amendment. This amendment provides for the paying out of the sum appropriated by the act of June 28, 1898, and which was credited to the incompetent funds of the Chickasaws on the books of the Treasury. The amendment to the amendment provides that the beneficiaries' decedents shall establish their claims within six months, instead of within one year, as provided within the original amendment.

The House receded from amendment No. 69. This amendment provides for the payment of $12,039.35 to the Flambeau Lumber Company for improvements made by it by direction of the Secretary of the Interior and which were to be paid for by the taking of timber, the payment thereof having been stopped by injunction granted by the courts of Wisconsin.

The House receded from amendment No. 70, which appropriated $750 for the repair of Big Wind River bridge, in Wyoming.

The House receded from amendment No. 71, which appropriates $3,000 for the purchase and construction of a portable sawmill for the Klamath Agency, in Oregon.

The House receded from amendment No. 74, which is a provision inserted by the Senate for extending one year the time in which actual settlers may make the payments provided by law.

The House receded from amendment No. 75, which provides for an appropriation of $50,000 to be used for stamping out the smallpox scourge among the Indians, and which amendment is so drawn as to cover the amount already expended for that purpose, with an amendment which provides that the accounts of money heretofore expended, before being approved by the Secretary, shall be carefully examined.

The House receded from amendment No. 76, which provides an appropriation of $200 to pay the expenses of defending four Papago Indians, tried on a charge of violating the United States statutes.

The House receded from amendment No. 77, with an amendment. The amendment as passed by the Senate provided for an appropriation of $220,000 to carry out the provisions of certain agreements made by Inspector McLaughlin with the white settlers upon the Tongue River Reservation, Mont. The amendment as agreed upon by the conferees reduces the amount to $171,615.44 and eliminates the gratuities provided in the original amendment for the purchase of cattle, the construction of fences, etc., and the amount appropriated extinguishes the claims of all settlers on the reservation and enables the Secretary to put the Indians in exclusive possession of all the land included within the Executive order of 1884. The Secretary was authorized to send an inspector to this reservation to negotiate for the purchase of the lands and improvements of the settlers within the bounds of said reservation as were described in the Executive order of 1884. The agreements were not to be binding until ratified and approved by the Secretary of the Interior. The inspector did visit this reservation and did enter into agreements with the settlers, which said agreements were ratified and approved by the Secretary of the Interior.

The House receded from amendment No. 78, which provides $5,000 in addition to the amount appropriated last year for the completion of the buildings at Leech Lake Agency, Minn.

The House receded from amendment No. 79, which appropriates $5,000 for the purpose of printing a digest of decisions relating to Indian affairs, prepared under the direction of the Commissioner of Indian Affairs, under the provisions in preceding bills.

The House receded from amendment No. 82. This amendment strikes out the provision authorizing an expenditure for educational purposes in Alaska. The sundry civil bill carries an appropriation for this object.

The House receded from amendment No. 83. By this amendment the Senate struck out the House provision relating to the management of schools in the Indian Territory.

The House receded from amendments Nos. 84 and 85, with amendments, which increase the appropriation for the construction, purchase, repairs, etc., of school buildings by $40,000. The amendment as agreed upon reads as follows: "For the construction, purchase, lease, and repair of school buildings, and for sewerage and water supply systems, and lighting plants, and purchase of school sites, $240,000, $40,000 of which shall be immediately available; in all, $1,440,000."

The House receded from amendment No. 88, which authorizes the purchase of additional land, in the discretion of the Secretary of the Interior, for the Carlisle School. It does not increase the appropriation for such school.

The House receded from amendment No. 94, with an amendment. This amendment increases by $10,000 the appropriation for a steam-heating plant at the Fort Totten School, North Dakota, and also increases by $1,200 the amount appropriated heretofore for a lighting plant at said school.

The House receded from amendment No. 96, as this provision was covered by the amendment No. 94.

The House receded from amendment No. 97, which increases by $28,500 the appropriation for the Genoa school, Nebraska, the increased appropriation to be expended for the construction of new buildings.

The House receded from amendment No. 100. This amendment decreases by $1,200 the appropriation for the support of the Grand Junction (Colorado) school.

The House receded from amendment No. 101, which appropriates $20,600 for the erection of a dormitory and the purchase of additional land for the same school.

The House receded from amendment No. 104, which provides for the transportation of pupils at Haskell Institute, Kansas, this being provided for in another amendment.

The House receded from amendment No. 105, which decreases by $5,000 the amount appropriated for the maintenance of this school.

The House receded from amendment No. 106, which increases by $10,000 the amount heretofore appropriated for the erection of new buildings at the Haskell Institute.

The House receded from amendment No. 109, which simply makes immediately available an appropriation for a new building at the Mount Pleasant school, Michigan.

The House receded from amendment No. 110, with an amendment. The House provision provided for the removal of the Perris school to Riverside; the Senate amendment provided for the construction of a new school at Riverside, and the amendment as agreed to by the conference committee leaves the construction of the school in the discretion of the Secretary of the Interior.

The House receded from amendment No. 111, with an amendment. The

amendment as passed by the Senate provided for an appropriation of $15,000 for the erection of a dormitory at the Phœnix school, Arizona. The amendment as agreed to by the conferees appropriates $7,500 for this purpose.

The House receded from amendment No. 113, with an amendment. The first amendment, as passed by the Senate, provides for the purchase of additional land for the Morris school, Minnesota, for $6,400. The amendment as agreed upon in conference makes this appropriation available for the purpose in the discretion of the Secretary of the Interior.

The House receded from amendment No. 115, which appropriates $20,000 for the erection of a brick dormitory at the Salem school, Oregon.

The House receded from amendment No. 117, which provides for the payment of $500 per annum to the head chief of the Sac and Fox Indians in the State of Iowa.

The House receded from amendments Nos. 119 and 120, which make immediately available the appropriations carried by the bill for additional buildings at the Toma (Wisconsin) school.

The House receded from amendment No. 122, which increases by $5,000 the amount appropriated for transportation of pupils. This increases this sum by the amount that was stricken out at amendment 105. It is a mere transposition from one portion of the bill to another.

The House receded from amendments Nos. 123 and 124, with an amendment. Together they provide that supplies may be purchased, contracts let, and labor employed for the construction of wells and ditches and other irrigating work without advertising for bids, and that, in the performance of this work, Indian labor be employed where possible, and that the Secretary of the Interior arrange, so far as practicable, for the manufacture of shoes, clothing, and other articles at the reservation and industrial Indian schools.

The Senate receded from amendment No. 125, with an amendment, which provides for the leasing of the unimproved allotted lands of the Yakimas for agricultural purposes only.

The House receded from amendment No. 126, making so much of the appropriation for the transportation of supplies as may be necessary available immediately.

The Senate receded from amendment No. 127, with an amendment. This provision was placed in the bill at the request of the Department, in order to close up the affairs of these tribes of Indians who, under existing laws, have been permitted to sell their property to other members of the same tribe, and the Senate amendment simply extends the provisions of said act to conveyances of land by the heirs of deceased allottees which have been duly made and approved by the Secretary of the Interior.

J. S. SHERMAN.
CHARLES CURTIS.
JOHN S. LITTLE.

Mr. HOPKINS (before the reading was concluded). The report, as I understand, is unanimous; and as this matter has all been gone over very carefully, I ask unanimous consent that the further reading of the report be dispensed with.

The SPEAKER. The gentleman asks unanimous consent to dispense with the further reading of the statement. Is there objection?

Mr. LOUD. Is this the report or the statement?

Several MEMBERS. The statement.

Mr. LOUD. Has the report been read?

Mr. SHERMAN. It has been printed in the RECORD for the last two days.

Mr. LOUD. It would be a pretty dangerous precedent to dispense with the reading.

Mr. HOPKINS. The report is unanimous.

Mr. LOUD. Still it would be a pretty dangerous precedent to pass over the reading. Does not the gentleman recognize that fact?

Mr. HOPKINS. Under the circumstances, I would not regard this as a precedent.

Mr. LOUD. It would be so accepted hereafter.

Mr. HOPKINS. I think not.

Mr. LOUD. I think we had better complete the reading.

The SPEAKER. Objection is made. The Clerk will continue the reading.

The reading of the statement was resumed and concluded.

Mr. SHERMAN. I move the previous question on the adoption of the report.

Mr. FITZGERALD of Massachusetts rose.

Mr. SHERMAN. For what purpose does the gentleman rise?

Mr. FITZGERALD of Massachusetts. I would like to say a few words. I ask the gentleman to give me five minutes.

Mr. SHERMAN. If any time is to be occupied, I wish first to yield a moment to the gentleman from Arkansas [Mr. LITTLE], who desires to make a request.

Mr. LITTLE. Mr. Speaker, I have certain memoranda and data furnished by the Commissioner of Indian Affairs, relating to the school question and the question of economy of administration, which I desire to print in the RECORD as part of my remarks.

The SPEAKER. The gentleman from Arkansas [Mr. LITTLE] asks unanimous consent to print in the RECORD certain data that he has obtained from the Indian Office in regard to the school question, etc. Is there objection?

Mr. FITZGERALD of New York. Pending that request, I would like some information in regard to the sort of data which the gentleman wants to print. It may be matter which I would not care to have go into the RECORD unless an opportunity were afforded to examine it, and, if necessary, answer it.

Mr. LITTLE. It is matter furnished me exclusively by the Commissioner of Indian Affairs and relates first to the economy of the administration of the school system in general and to the ability of the Department to care for the Indians heretofore cared for in the sectarian schools.

Mr. GAINES. It is all a public record, is it not?

Mr. LITTLE. It is official.

Mr. FITZGERALD of New York. This is a question that has been discussed by the House.

Mr. SHERMAN. When the matter was discussed in the House certain gentlemen made statements that were absolutely erroneous. It was thought at the time, in order to expedite matters, that we would permit those statements to go unanswered, and it was afterwards discussed in a meeting of the committee, and the gentleman from Arkansas [Mr. LITTLE] was especially requested by several members of the committee to obtain the statistics which would be an answer or refutation of those erroneous statements. That is what it is, I think. I think the gentleman from Arkansas [Mr. LITTLE] does not intend to discuss the contract schools. Am I right?

Mr. LITTLE. I will say this——

Mr. FITZGERALD of New York. Perhaps these erroneous statements may be charged to me. I discussed this question.

Mr. SHERMAN. Not at all. I was not referring to any speech of the gentleman from New York.

Mr. LITTLE. I do not propose to submit any remarks of my own. It is simply a statement from the Commissioner of Indian Affairs. I do not propose to publish anything of my own preparation.

Mr. FITZGERALD of New York. If this information will relate in any way to the question that I discussed, I do not propose to let the Commissioner have such matter inserted in the RECORD unless an opportunity be given to reply to it. I do not care to have that matter circulated unless an opportunity is given to answer it.

Mr. LITTLE. Does the gentleman want to object?

The SPEAKER. Is there objection?

There was no objection.

The matter referred to is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 15, 1900.

SIR: Referring to my conversation with you a few days ago, I herewith inclose for your information memorandum relating to the cost of Indian school buildings and also résumé of the contract system. * * *

Very respectfully,

W. A. JONES, *Commissioner.*

Hon. JOHN S. LITTLE,
House of Representatives.

Memorandum with reference to the speech of Hon. John J. Fitzgerald, of New York, as it appeared in the Congressional Record of March 1, 1900.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 14, 1900.

Mr. FITZGERALD introduced an amendment to reestablish the contract-school system. He indulged in a historical résumé of the contract-school system as it has gradually grown up. He refers to the work of the great religious bodies, and says that under the encouragement of former Commissioners the contract-school system showed an enlargement of existing schools and an addition of new schools, the amount set aside being rapidly increased.

These contract schools gradually increased from their inception until the amount necessary for their maintenance reached its maximum during the fiscal year ending June 30, 1892, when contracts were made with various denominations and individuals to the amount of $611,570, which was nearly one-fourth of all the amount set aside for Indian education. Since that time all denominations other than the Catholic have voluntarily given up their contracts, while other contracts have been decreased by action of the Indian Office under various appropriation acts of Congress requiring such reductions to be made. At this time the agitation of the matter of giving Government aid to sectarian schools assumed proportions which necessitated action by the Indian Department. In deference to the general sentiment that religious organizations should do their own missionary work out of their own funds, it was proposed to gradually reduce the amount set aside for contract schools, so that as little hardship as possible would be entailed upon the contracting parties. It was thought that by this gradual reduction the so-called equities upon the part of these people whose organizations had come into the field of Indian education would be satisfied in a fair and just manner.

The Indian appropriation act for the fiscal year 1895 carried with it the first attempt to discontinue Government aid to sectarian schools. The theory was then announced that at the expiration of five years the necessity for further appropriations would cease. Under the operation of this law a 20 per cent reduction was made in these schools, for which, in 1894, $359,810 were set aside, this giving them, in 1895, $285,715. There were, however, $177,790 appropriated specifically in 1894 and 1895 for 11 schools which were named; schools not so named were 61 in number, and were thus the only ones affected.

In 1889 there were allowed for contract schools $529,905; 1890, $562,540; 1891, $570,218; 1892, $611,570; from this point the amounts decline, as in 1893 there were only $593,241 set aside; 1894, $537,600. These reductions up to 1895 were caused by various churches, such as the Presbyterian, Congregational, Episcopal, Friends, Methodists, Mennonites, either giving up or reducing their contracts with the Government. While all other denominations made material reductions or no increases, the Catholics from 1889, when they were allowed $347,672 out of a total of $529,905, gradually increased their allotment each year until 1894, when they reached their maximum of $389,745, just prior to the operation of reducing clauses of the law. Hampton and Lincoln in 1894 being specifically named in the act for $53,440, if excluded, would only leave $94,415 for all other denominations and associations.

The second reduction of 20 per cent was made for the fiscal year 1896, and was based upon the amount allowed in 1895. After making the deduction, $228,306 were available for all schools for which Congress had made no specific appropriation, and for these $142,490 were allowed, making a total for all contract schools of $370,796. Out of this money two schools, Rensselaer and White's Manual Labor Institute, of Indiana ($18,350), did not desire contracts; the Wittenberg (Lutheran) School ($15,120), Ramona (Unitarian) School ($5,490), Woman's National Indian School, Greenville, Cal. ($4,320), Hope (Episcopal) School ($4,860) were either purchased or leased from their respective owners and operated as regular Government schools. Twenty-three schools were reduced in number of pupils or per capita allowance and 4 contracts

were discontinued, thus leaving 53 Catholic schools receiving $308,471 to $62,325 for all other schools.

In 1897 the appropriation act declared it to be the settled policy of Congress hereafter to make no further appropriation for sectarian schools, but allowed contracts to be made with present contract schools to an amount not exceeding 50 per cent of the amount so used in fiscal year 1895. This allowed $257,928 for these schools, of which Hampton and Lincoln, under special appropriation, obtained $53,440; Miss Howard, $3,500; Point Iroquois, Mich., $600; Rev. John Roberts, $2,160, and the Roman Catholics, $198,228. It will thus be seen that out of 37 schools of this class only 3 are non-Catholic. All schools conducted under the other great church organizations have by their own actions disappeared from the list known as contract schools.

Again, for the fiscal year 1898 Congress recited the declared policy to be hereafter to make no appropriation for sectarian schools, but allowed 40 per cent of the amount so used for the fiscal year 1895 to be again used. This reduction allowed $212,954 for these schools. The Government purchased Miss Howard's school ($3,500), which was dropped from the contract list, and left only Hampton, Lincoln, John Roberts, and Point Iroquois schools; in all $56,200 for non-Catholic schools, and $156,754 for Roman Catholics, who maintained 32 schools. This year the two Catholic schools on the Osage Reservation ($11,250) were eliminated out of the general school fund and charged specifically to the tribal funds; also two schools out of Pottawatomie funds ($12,451), which being added to the amount above named allows the Catholics $180,445 in 1898.

For the fiscal year 1899 Congress omitted its declaration to make no further appropriation for sectarian schools, but permitted the Indian Office to use 30 per cent of the amount so used for contract schools in 1895. After this reduction was made, $172,462 were used for contract schools. Hampton and Lincoln received their special appropriation of $53,440, and, the Point Iroquois school having been transformed into a regular Government school, left only one Protestant school, Rev. John Roberts's, $2,160. Contracts were made with the Catholic schools on the Osage Reservation ($17,500) and Catholic schools for the Pottawatomies ($5,625), making a total which this church received during 1899 of $139,987.

For the fiscal year ending June 30, 1900, Congress again omitted its declaration hereafter to make no further appropriation to sectarian schools, but permitted the Indian Office to use 15 per cent of the amount so used for contract schools on 1895. After this reduction was made the amount set aside for the present fiscal year of 1900 was $59,822.25. To this must be added $20,875 for the two Osage and the Pottawatomie schools, making total amount of $80,697.25. Hampton and Lincoln received their special appropriation of $53,440. Of this amount ($80,697.25) $2,160 are for the only Protestant school now under contract, leaving $78,737.25 for Catholic contract schools in operation during the present fiscal year.

From 1889 to 1899, inclusive, the Catholics have drawn for contract schools $3,493,409; other denominations and persons, $1,457,129. The following table shows the enrollment, average attendance, decrease or increase in regular Government and contract schools for the period practically covered by the reductions in the contract system:

Attendance at contract and regular Government schools compared.

Year.	Contract schools.				Regular Government schools.			
	Enrollment.	Average attendance.	Decrease in enrollment.	Decrease in attendance.	Enrollment.	Average attendance.	Increase in enrollment.	Increase in attendance.
1893	6,125	4,904	320	258	14,715	11,233	1,600	1,527
1894	6,026	5,163	99	*259	15,237	11,831	522	698
1895	5,880	4,998	146	165	16,584	12,804	1,347	973
1896	4,439	3,797	1,441	1,201	17,789	14,365	1,205	1,561
1897	3,158	2,785	1,281	1,012	18,603	14,876	814	511
1898	2,999	2,639	159	146	19,899	16,165	1,296	1,289
1899	2,903	2,523	96	116	20,712	16,718	813	553
1900	2,636	2,467	141	110	20,241	17,545	1,020	788
Total.	.....	.....	3,683	2,898	.....	.....	8,617	7,900

*Indicates increase; all other in this column are decreases.

The figures for 1900 are for the first and second quarters only.

The reports of attendance at the Government schools from July 1 to December 31, 1899, show an increase of 1,020 pupils enrolled and 786 in average attendance over the preceding period of 1898, while on the other hand the contract schools for comparatively the same period indicate decreases, in enrollment 141, and average attendance 110. The probabilities are that both these classes of schools will increase their increases and decrease their decreases in the above figures when the results of the last two quarters of the present fiscal year are rendered. If, therefore, the above numbers are added to the figures in the table, it will show that from 1893 to the close of the second quarter of the fiscal year 1900 on December 31, 1899, the contract schools have lost in attendance 2,898 and in enrollment 3,683 pupils, while for the same period the regular Government schools have gained 7,900 pupils in average attendance and 8,617 in enrollment. In other words, for the entire period covered by the reducing acts of Congress this office has easily cared for every child who has been debarred by reason of such reductions from attendance on the contract schools, besides providing additional accommodations for 5,000 pupils in excess of that number.

It has been demonstrated, as shown above, that the Indian Office is prepared to take care of every pupil these religious organizations may turn over to it at any time. There are now in these contract schools 2,000 pupils, and if at the close of the present fiscal year every one was discontinued, it is thoroughly demonstrated that no one will knock for admission at the Government schools and be refused. It was stated in the discussion of this matter in the House that the total capacity of Government schools of all kinds at the end of the fiscal year 1899 was 20,126, while the enrollment of pupils in these schools was 20,712. The speaker said this conclusively proved that at the time the Government could not accommodate 586 pupils enrolled in its various schools. Then he asked, Where are the 2,000 pupils in the contract schools to be placed if these schools are abrogated? The reply is ample in the above statement, besides the speaker failed to take into consideration the difference between enrollment and average attendance. It should be noted that while the capacity is stated to be 20,126, the average attendance is 16,718, which represents the actual number in the schools continuously during the year.

In the criticisms and debate on this question no account is taken of the fact that religious bodies do and can take care of Indian pupils. There are a number of mission schools throughout the Indian country maintained and operated by various religious bodies and churches, who furnish teachers, food, clothing, etc., to the pupils attending. These schools, when situated on a reservation where rations and clothing are issued are presumed to stand in loco parentis, and the agent furnishes the school such rations of food and clothing as he would give the parent of the child were the child at home. If the school is not on a reservation or is not at a ration agency, the whole expense of the school is borne by the association or church having charge of the same.

In 1893, prior to the inauguration by Congress of reducing contract schools, these "mission schools" reported an attendance of 75 pupils, and in 1894, 152 pupils. For the year 1895, when the first reduction was made, 754 pupils were reported; 755 in 1896; 813 in 1897; 1,112 in 1898; and 1,261 in 1899. An analysis of the average attendance at the mission schools shows that the Catholic schools had an attendance of 259, the Protestant schools, 855. It seems evident from this that the great Protestant organizations in refusing aid of the Government for their schools have maintained them in the true missionary spirit out of their own funds.

Since the policy of reducing appropriations for contract schools was inaugurated it has been a part of the policy of the Indian Office to absorb, as far as possible, such schools as have been discontinued by the operation of law. In pursuance of this policy there have been secured by purchase from the Catholics two large boarding schools at Morris and Clontarf, Minn., and by lease the day schools at Taos, Santo Domingo, San Felipe, Acoma, Isleta, San Juan, N. Mex.; Lac Court d'Oreilles and Odanah, on La Pointe Reservation, Wis. In nearly every case the teachers and others employed at the school were, under a special rule of the Civil Service Commission, covered into the classified service. It is a part of the policy of the Indian Office in dealing with this question to purchase such available school property belonging to the various religious denominations as they may care to sell. So far, however, the Catholics have not desired, or at least have not offered, to sell any of their active boarding schools situated on the reservations. There certainly can be no great cause of complaint on their part against the treatment which has been accorded them by the Indian Office.

The conclusion with reference to the future of children enrolled in these contract schools can be easily settled by the Indian Office. No fears need be entertained by Congress that any of them will be deprived of proper facilities. If all of the contract schools should by preconcerted effort give up their contracts at one time, it would make no difference in the policy of the Indian Office. In the discussion of the question by the advocates of a continuation of the policy of Government aid to sectarian schools it does not seem to appear that the beneficiaries of the present contract system can, without violating their traditional policies, discontinue their schools among the Indians. As stated before, in no case have they offered to sell to the Government any of their active reservation schools, for the reason, it is presumed, they are necessary to the little mission churches which are now engaged so faithfully in converting these Indians to their faith.

To these zealous and godly missionaries the school is as necessary as the mission itself, and therefore it is not believed nor is it desired that they should relinquish their moral and educational work among the younger Indians. However, to test this matter it has not been thought wise to build the Government schools by the side of mission schools for the purpose of forcing or persuading the Indian children to leave such schools for enrollment in those established by the Government. If such schools were built and these people still desired to maintain theirs, the Government building would either stand as a monument of misdirected effort or be filled at the expense of a great church's missionary efforts. When other denominations dropped out of the Government contract system they still continued their missionary work in the same manner they have done among other heathen or benighted races. Therefore it is reasonable to presume the present beneficiaries of the system will do likewise. If not, the Government will have ample facilities for educating its Indian wards.

It is claimed in the discussion in Congress above referred to that "if contract schools are obnoxious because sectarian, Government schools are certainly much more objectionable." This is a statement which is not substantiated by the facts. Long quotations are given from Archbishop Ryan, Herbert Spencer, and Webster's argument in the celebrated Girard case, as bearing upon this subject. The definition of a sectarian school, as adopted and understood in this office with reference to the educational matters, is that of the latest edition of Webster's International Dictionary. He defines sectarian as "a member or adherent of a special school, denomination, or religious or philosophical party;" sectarianism as "excess of partisan or denominational zeal; adherence to a separate church organization."

In a Catholic contract school every employee, from superintendent to the smallest Indian assistant, is a member of the Catholic Church; no other denomination has any representative: the ritual of the Catholic Church, its catechism, its traditions, its theories, are alone taught; it is emphatically an organization for the purpose of inculcating the peculiar tenets of the Catholic faith to the exclusion of all others. In a Government school the religious or political opinions of an employee are not involved in his selection or retention in the school. Members of the Catholic, Presbyterian, Baptist, Methodist, and other great religious associations work hand in hand, upon a broad religious basis on which any person can legitimately stand.

Representative FITZGERALD says truly that the only difference between the Government schools and the contract sectarian schools is that one is supported by the Government and the other by contributions from religious and other associations. This is the point involved in sectarianism. The mission schools if managed under Presbyterian auspices, teach the peculiar tenets of Presbyterianism to the exclusion of all other tenets; so are the Methodist, Baptist, Episcopalian, and others. In other words, they use their own funds in order to propagate their peculiar and separate creeds.

Memorandum of Commissioner on speech of Mr. Burke of Texas, delivered in the House of Representatives on February 2.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 13, 1900.

Mr. BURKE says there are 30 schools provided for under this head, referring, it is presumed, to the special appropriations on page 45 of the bill presented to the Committee of the Whole on January 26, 1900. The bill only provides for 29 schools, the total appropriation being $1,424,267. The appropriation is made for 7,280 pupils instead of 6,230, as stated by Mr. BURKE. He figures that the appropriations for these schools carry $1,797,117, an aggregate of more than $288 per child. His premises are wrong, the true amount being $1,424,267, which, divided by the number of pupils appropriated for (7,280), gives a total per capita of $195.78, divided as follows:

For support of the schools (which includes subsistence, clothing, fuel, lights, teachers, physicians, matrons, clerks, blacksmiths, and all employees except superintendents) the average per capita is $167, as stated by the bill. For repairs and improvements (including electric-light plants, sewer and water systems) the total appropriation is $91,400, an average per capita of $12.55. The new buildings average $9.56 per capita; the pay of superintendents, $5.66 per capita. Total per capita, $195.78. It is thus clear that the figures of Mr. BURKE are not in accordance with the amounts fixed in the bill. He omitted, it is clearly apparent, at one item 1,000 pupils. It is the number supported at Carlisle, for which he charges the Government but allows no credit in the per capita.

The above figures do not relate to the general appropriation of $1,200,000, of which $5,000 are to be used for education of Indians in Alaska, and also a sum for pay of architect and draftsman and a laborer in the Commissioner's Office in Washington. Out of this amount are supported the reservation schools, which, not being so well equipped for industrial training, and not usually being located near towns and civilization, are maintained at an average rate less than those specifically appropriated for.

Mr. BURKE makes a comparison of the cost of Indian schools with that of the public schools of his own State. This is an unjust and misleading comparison. He forgets that the public schools do not support their pupils, and do not teach them trades, industries, etc. If he will compare, however, the cost of school buildings used for school purposes alone, which is the only portion of an Indian school at all similar to a public school in his State, his argument will fall to the ground. The only just method of comparison of the cost of Indian schools is to compare their cost with that of deaf and dumb asylums, blind asylums, reform schools, and the great industrial institutions of the country where conditions are similar. These schools, as are Indian schools, are compelled to have a full corps of physicians, teachers, matrons, industrial instructors, cooks, laundresses, farmers, etc.

The Indian Office does not hesitate to invite a comparison of the cost of these institutions with that of Indian schools, being satisfied that the cost of Indian civilization and education at such schools is less than in the white industrial and other schools of that character. In the Senate bill now pending there is an appropriation of $10,000 to supplement a $15,000 appropriation for a school building at Haskell. If this $25,000 is divided by 500 (the attendance at Haskell) it will give a per capita cost for this building of $50. It is doubted whether Mr. BURKE, in the State of Texas, can obtain a building of this character, of stone, as well equipped as it will be, for anything like the $50 per capita. The items referring to Hayward, Wis., and Kickapoo, Kans., schools are unjust comparisons, in view of the fact that he has mixed support and the building of a new school building, waterworks, etc., in one lump sum. The Indian Office invites comparisons where comparisons are legitimate.

The above statements refer to the bill H. R. 7433, which was committed to the Committee of the Whole on January 26, 1900, and ordered to be printed. It will not materially differ from that now pending in the Senate.

Mr. FITZGERALD of Massachusetts rose.

Mr. SHERMAN. Now, Mr. Speaker, how much time does the gentleman from Massachusetts [Mr. FITZGERALD] desire?

Mr. FITZGERALD of Massachusetts. I should like ten minutes.

Mr. SHERMAN. Oh, I hope the gentleman will not take that much time.

Mr. FITZGERALD of Massachusetts. Well, five minutes, then.

Mr. SHERMAN. I will yield to the gentleman from Massachusetts five minutes.

The SPEAKER. The gentleman from Massachusetts is recognized for five minutes.

[Mr. FITZGERALD of Massachusetts addressed the House. See Appendix.]

Mr. SHERMAN. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. FITZGERALD] may have the opportunity, if he desires it, after the gentleman from Arkansas [Mr. LITTLE] has printed the matter referred to a few moments ago, to print remarks in answer thereto.

The SPEAKER. The gentleman from New York [Mr. SHERMAN] asks unanimous consent that the gentleman from New York [Mr. FITZGERALD] have the privilege of printing remarks in the RECORD, after the data referred to by the gentleman from Arkansas have been printed. Is there objection?

There was no objection.

Mr. FITZGERALD of Massachusetts. Mr. Speaker, I ask the same privilege, that I may be allowed to complete my remarks.

The SPEAKER. The gentleman from Massachusetts [Mr. FITZGERALD] asks unanimous consent that he be permitted to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. SHERMAN. I ask for a vote on the conference report.

The conference report was agreed to.

DISBURSING CLERK OF THE CENSUS OFFICE.

Mr. HOPKINS. Mr. Speaker, I ask for the present consideration of a bill, which the Clerk will read.

The SPEAKER. The gentleman from Illinois, chairman of the Committee on the Twelfth Census, asks to have considered a bill, which the Clerk will now report.

The bill (H. R. 11816) requiring the disbursing clerk of the Census Office to file an additional bond, and for other purposes, as proposed to be amended by the Committee on the Twelfth Census, was read, as follows:

Be it enacted, etc., That the Director of the Census be, and he hereby is, authorized and directed to require the disbursing clerk of the Census Office to give bond to the Secretary of the Treasury, in addition to that now required by law, in the penal sum of $250,000, which bond shall conform to the requirements of an act entitled "An act to provide for taking the Twelfth and subsequent censuses," approved March 3, 1899, in relation to the bond to be filed by the disbursing clerk of the Census Office: *Provided*, That the Director of the Census may dispense with such additional bond after June 30, 1901.

SEC. 2. That the salary of the disbursing clerk of the Census Office is hereby increased for the year ending June 30, 1901, in the sum of $500, so that for the year commencing July 1, 1900, and ending June 30, 1901, the salary of said officer shall be $3,000.

SEC. 3. That, in the absence of the Director and Assistant Director, the chief clerk shall serve as Acting Director.

Mr. HOPKINS. Mr. Speaker, just a word in explanation of the bill, which was reported unanimously by the Committee on the Census, at the solicitation of the Director of the Census. Under the existing law the disbursing clerk is required to give a bond of only $50,000. During the period of taking the census, and paying the enumerators and special agents, etc., this officer will have under his control many hundred thousand dollars, and it is thought to be wise to require him to give an additional bond of $250,000, so that the aggregate will be $300,000.

Now, the second section of the bill provides that his salary for the year shall be increased in the sum of $500. That is the amount the Director of the Census says will be required to be paid to the trust company to give the necessary bond required by the bill.

The third section provides that in the absence of the Director and the assistant the chief clerk may act as Director. In previous censuses this Bureau has been under the Interior Department, and the Secretary of the Interior has had the power to appoint an acting Director in the absence of the Director. No such law exists at present, and as a precautionary measure it is thought that the third section ought to be adopted.

Mr. CANNON. What is the amount of the salary of this disbursing officer?

Mr. HOPKINS. Twenty-five hundred dollars.

Mr. CANNON. Now?

Mr. HOPKINS. It will be $3,000 for the one year.

Mr. CANNON. How does that correspond with the salary of the disbursing clerks in the great Departments, like the Interior?

Mr. HOPKINS. Well, I can not state whether it is $2,500 or $3,000.

Mr. CANNON. I think that $2,000 is the ordinary salary of a disbursing clerk in the Departments.

Mr. HOPKINS. I will say to my colleague that in the Departments the law is so arranged that the disbursing clerks can not control the money; but under the census law a large amount of money is absolutely under the control of the disbursing clerk, who will have at one time as much as $600,000 in his hands.

Mr. CANNON. Why not let the law be changed?

Mr. HOPKINS. There is not the same rule for it, and you can not do it.

Mr. CANNON. I think you can do anything by legislation.

Mr. HOPKINS. When I say you can not do it, I mean it will take a good deal of time, perhaps, to get it done.

Mr. CANNON. I think a single sentence will do it. I care nothing about the $500; but it seems to me that there is a disbursing clerk for a mere office, and it is setting a pretty bad example. It seems to me that the disbursing clerks in all the great Departments will be trooping fast and furious along that line.

Mr. HOPKINS. I do not think so. This is entirely different. There is not a disbursing clerk in all the Departments of the Government that controls any of the funds in his possession except this disbursing clerk.

Mr. CANNON. This man ought not to control any of the funds beyond the amount of money deposited to his credit as a disbursing officer, to be paid out on vouchers only.

Mr. HOPKINS. This disbursing clerk is required to take a hundred thousand dollars at a time in money and take it down to the Census Office and pay the help there.

Mr. CANNON. That is true in all the Departments. There are vastly more employees in the Treasury Department than there are here, I take it.

Mr. HOPKINS. Well, that was investigated by the Director of the Census, and he says "no."

Mr. CANNON. Well——

Mr. HOPKINS. I will say that this $500 is limited to the one year.

Mr. RICHARDSON. Who is to approve the bond that the disbursing clerk is to give?

Mr. HOPKINS. The bond is given to the Secretary of the Treasury and the sureties approved by the Solicitor of the Treasury.

Mr. RICHARDSON. Does the law provide that?

Mr. HOPKINS. The old law so provides. It is an additional bond, and the existing law requires as I have stated.

Mr. RICHARDSON. If the gentleman is satisfied on that point, I am satisfied. The only point is you give him $500, which you say he may use for the bonding of a guaranty company and to pay them for making the bond.

Mr. HOPKINS. I will state that the Director of the Census informed our committee that the rate for a $250,000 bond amounted to six hundred and some odd dollars.

Mr. RICHARDSON. I have no question about that. The point is that the law does not require him to give a bond of a guaranty company, and he might make a straw bond and not have it approved.

Mr. HOPKINS. He could not do that under the existing law, because the bond is to be approved as I have already stated.

The SPEAKER. The question is on agreeing to the amendments.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, was read the third time, and passed.

On motion of Mr. HOPKINS, a motion to reconsider the last vote was laid on the table.

THOMAS ROSBRUGH.

Mr. LACEY. Mr. Speaker, I ask that the House remain in session long enough to dispose of one motion.

The SPEAKER. Without objection, the request of the gentleman from Iowa will be granted.

There was no objection.

Mr. LACEY. Last evening a motion was made to reconsider the vote whereby Senate bill 557, for the relief of Thomas Rosbrugh, was passed. I objected to its being laid on the table. I now withdraw that objection.

The SPEAKER. On yesterday the gentleman from Missouri [Mr. DE ARMOND] moved to reconsider the vote by which Senate bill 557 was passed, and that that motion lie on the table. The gentleman from Iowa [Mr. LACEY] objected. The gentleman now withdraws his objection, and hence the motion of the gentleman from Missouri is agreed to.

ENROLLED BILLS SIGNED.

Mr. BAKER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title; when the Speaker signed the same:

H. R. 8582. An act making appropriations for the support of the Regular and Volunteer Army for the fiscal year ending June 30, 1901.

The SPEAKER announced his signature to enrolled bill and joint resolution of the following titles:

S. 4560. An act to provide for officers in the customs district of Hawaii; and

S. R. 76. Joint resolution withdrawing certain lands on the island of Oahu, Hawaii, from the public domain.

ALICE V. COOK.

The SPEAKER. The Chair lays before the House Senate concurrent resolution No. 68, which the Clerk will read.

The Clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill of the Senate (S. 2344) granting a pension to Alice V. Cook.

The resolution was agreed to.

CHANGE OF REFERENCE.

The SPEAKER laid before the House the following change of reference from the Committee on Claims to the Committee on the Judiciary: Senate bill 1794, for the relief of Fred Weddle.

The SPEAKER. The Chair announces as Speaker for evening Mr. O'GRADY of New York.

And then (at 5 o'clock and 25 minutes p. m.), the Speaker announced the House, under its previous order, to be in recess until 8 o'clock this evening.

The recess having expired, the House at 8 o'clock p. m. resumed its session, Mr. O'GRADY in the chair as Speaker pro tempore.

CIVIL GOVERNMENT FOR ALASKA.

On motion of Mr. WARNER, the House resolved itself into Committee of the Whole on the state of the Union, Mr. JENKINS in the chair, and resumed the consideration of Senate bill 3419, making further provision for civil government in Alaska, and for other purposes.

The Clerk read as follows:

SEC. 168. A motion to postpone a trial on the ground of the absence of evidence shall only be made upon affidavit showing the materiality of the evidence expected to be obtained, and what diligence has been used to procure it, and also the name and residence of the witness or witnesses. The court may also require the moving party to state upon affidavit the evidence which he expects to obtain, and if the adverse party thereupon admit that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial shall not be postponed. The court, when it allows the motion, may impose such conditions or terms upon the moving party as may be just.

The following amendment, reported by the committee, was read, and agreed to:

In line 4 strike out "what" and insert "a statement of facts showing that due."

The Clerk read as follows:

SEC. 170. Trial juries shall be formed as follows: When the action is called for trial, the clerk shall draw from the trial jury box of the court, one by one, the ballots containing the names of the jurors until the jury is completed or the ballots are exhausted. If the ballots become exhausted before the jury is complete, the marshal, under the direction of the court, shall summon from the bystanders, or the body of the district, as the court may direct, so many qualified persons as may be necessary to complete the jury. Whenever, as in this section provided, the marshal shall summon more than one person at a time from the bystanders or the body of the district, he shall return a list of the persons so summoned to the clerk. The clerk shall write the names of such persons upon separate ballots, and deposit the same in the trial jury box, and then draw such ballots therefrom, as in the case of the panel of trial jurors for the term. The jury shall consist of twelve persons, unless the parties consent to a less number. Such consent shall be entered in the journal.

The following amendment, reported by the committee, was read, and agreed to:

In line 1, after "juries," insert "in civil actions."

The Clerk read as follows:

SEC. 175. Particular causes of challenge are of two kinds:

First. For such bias as, when the existence of the facts is ascertained, in judgment of law disqualifies the juror; and which is known in this code as implied bias;

Second. For the existence of a state of mind on the part of the juror in reference to the action, or to either party, which satisfies the trier, in the exercise of a sound discretion, that he can not try the issue impartially and without prejudice to the substantial rights of the party challenging, and which is known in this code as actual bias.

The following amendments, reported by the committee, were read, and agreed to:

In line 5 strike out "code" and insert "title."
In line 7 strike out "the" and insert "a."
In line 11 strike out "code" and insert "title."

The Clerk read as follows:

SEC. 177. A challenge for actual bias may be taken for the cause mentioned in the second subdivision of section 176. But on the trial of such challenge, although it should appear that the juror challenged has formed or expressed an opinion upon the merits of the cause from what he may have heard or read, such opinion shall not of itself be sufficient to sustain the challenge, but the court must be satisfied from all the circumstances that the juror can not disregard such opinion and try the issue impartially.

The amendment of the committee to strike out, in line 3, "seventy-six" and insert "seventy-five" was read, and agreed to.

The Clerk read as follows:

SEC. 183. Upon the trial of a challenge the rules of evidence applicable to testimony offered upon the trial of an ordinary issue of facts shall govern. The juror challenged, or any other person otherwise competent, may be examined as a witness by either party. If a challenge be determined to be sufficient, or found to be true, as the case may be, it shall be allowed, and the juror to whom it was taken excluded; but if determined or found otherwise it shall be disallowed.

The amendment of the committee to strike out, in line 3, the word "facts" and insert "fact" was read, and agreed to.

The Clerk read as follows:

SEC. 186. When the jury has been completed and sworn, the trial shall proceed in the order prescribed in this section, unless the court for special reasons otherwise direct.

First. The plaintiff shall state briefly his cause of action, and the issue to be tried; the defendant shall then in like manner state his defense or counterclaim.

Second. The plaintiff shall then introduce the evidence on his part, and when he has concluded the defendant shall do the same.

Third. The parties may then respectively introduce rebutting evidence only, unless the court, for good reason, and in furtherance of justice, permit them to introduce evidence upon the original cause of action, defense, or counterclaim.

Fourth. Not more than two counsel shall be allowed to address the jury on behalf of the plaintiff or defendant; and the whole time occupied by either side shall not exceed two hours, unless the court, for special reasons, shall otherwise permit.

Fifth. When the evidence is concluded, unless the case is submitted to the jury on both sides without argument, the plaintiff shall commence and conclude the argument to the jury. If the plaintiff waive the opening argument, and the defendant then argue the case to the jury, the plaintiff shall not be permitted to reply to the argument of the defendant.

Sixth. The court shall then charge the jury, and, if either party require it, and shall, at the commencement of the trial, give notice of his intention so to do, the charge of the court, so far as it relates to the law and the facts of the case, shall be reduced to writing and given to the jury by the court as written, without any oral explanation. The charge, when reduced to writing, must be filed with the clerk.

The amendment of the committee was read, and agreed to, as follows:

At the end of the fifth paragraph of the section strike out "the whole time occupied by either side shall not exceed two hours unless the court for special reasons shall otherwise permit" and insert "the court may limit the time to be consumed by counsel in arguing the cause to the jury."

Mr. FINLEY. Mr. Chairman, I observe it is provided in one of the paragraphs of this bill that "not more than two counsel shall be allowed to address the court on behalf of the plaintiff or defendant." Now, I understand that under the general rule or practice in all the States it is left to the discretion of the court to regulate this matter as it may deem proper.

Mr. WARNER. It is thought best to make this a statutory provision; and it is the existing law in Alaska. I presume it is satisfactory to the people up there; at least, the gentlemen who have been here representing them said that it would be.

Mr. FINLEY. Mr. Chairman, I move to amend by inserting after the clause I have just read the words "unless otherwise ordered by the court."

Mr. WARNER. I suggest that the word "ordered" should be changed to "allowed."

Mr. FINLEY. Very well; I make that modification.

The amendment of Mr. FINLEY as modified was agreed to.

The Clerk read as follows:

SEC. 189. If, after the formation of the jury, and before verdict, a juror become sick, so as to be unable to perform his duty, the court may order him to be discharged. In that case, unless the parties agree to proceed with the other jurors, a new juror may be sworn, and the trial begin anew; or the

jury may be discharged, as the court shall direct, and a new jury then or afterwards formed.

The amendment reported by the committee to insert after the word "trial," in line 5, the word "may" was read, and agreed to.

The Clerk read as follows:

SEC. 195. Except as provided in sections 190 and 199, or in case of some accident or calamity requiring their discharge, the jury shall not be discharged after the cause is submitted to them until they have agreed upon a verdict and given it in open court, unless by the consent of both parties entered in the journal, or unless at the expiration of such period as the court deem proper it satisfactorily appears that there is no probability of an agreement.

The following amendments of the committee were read, and agreed to:

In line 2 strike out "ninety" and insert "eighty-nine."
In line 2 strike out "ninety-nine" and insert "ninety-eight."

The following committee amendment to section 210, as renumbered, was read, and agreed to:

In line 2 strike out the words "to referees."

The following committee amendment to section 211, as renumbered, was read, and agreed to:

In line 1, after the word "consent," insert the words "in an action being tried by the court without a jury."
After line 18 insert a new paragraph, as follows:
"Fifth. When the action of an equitable nature is at issue upon a question of fact."

Mr. BARNEY. I move to strike out the last word, for the purpose of asking a question of the chairman of the committee for information. That is, whether, under this code, it is not proper for the court to try all actions of an equitable nature? This fifth provision would seem to imply that such actions are to be tried only by referees.

Mr. WARNER. No; the action may be referred. The court, upon application or upon its own motion, may refer it when it is an action of an equitable nature. As I understand it, under this code the court tries all actions of an equitable nature without a jury, unless the court refers the case to a jury or to a referee. This authorizes the court to refer all equitable cases or cases of an equitable nature to a referee on its own motion, and no one can complain of it.

Mr. BARNEY. But in other code States the court tries all equitable actions, unless a jury is ordered.

Mr. WARNER. Yes. This provides that he can refer such action to a referee. Of course he has to approve the report of the referee.

The following committee amendment to section 213, as renumbered, was agreed to:

After the word "parties," in line 4, insert:
"*Provided*, That in a reference to take and report testimony only, the same may be made to any competent disinterested person, regardless of the foregoing qualifications."

The following committee amendment to section 220, as renumbered, was read, and agreed to:

Strike out all of the section after the word "truth," in line 4.

The following committee amendment was read and agreed to:

Insert a new section, to be numbered 223, as follows:
"SEC. 223. The verdict of the jury, any order or decision, partially or finally determining the rights of the parties, or any of them, or affecting the pleadings, or granting or refusing a continuance, or granting or refusing a new trial, or admitting or rejecting the evidence, provided objection be made to its admission or rejection at the time of its offer, or made upon ex parte application or in the absence of a party, are deemed excepted to without the exception being taken or stated, or entered in the journal."

The following committee amendments to section 226 were read, and agreed to:

In line 2, after the word "shall," insert the words "except as hereinafter provided."
In line 3, after the word "within," strike out the word "one" and insert the word "three." Strike out the word "day" and insert the word "days."
In line 6 strike out the word "one" and insert the word "three."
In line 7 strike out the word "day" and insert the word "days."
Strike out all after the word "it," in line 9.

Mr. JONES of Washington. I move to strike out the last word, for the purpose of asking the chairman of the committee a question. Is there anything in here that allows the court, in its discretion, to extend the time within which affidavits may be filed in support of a motion for a new trial?

Mr. WARNER. My recollection is that the court has that power.

Mr. JONES of Washington. It seems to me that it ought to have.

Mr. WARNER. It is in here somewhere.

Mr. JONES of Washington. I withdraw my formal amendment.

The following committee amendment to section 227 was read, and agreed to:

Strike out all after the word "decision," in line 3, and insert in lieu thereof the words "except as hereinbefore provided."

The following committee amendment to section 228 was read, and agreed to:

After the word "based," in line 7, insert the words "unless they appear of record."

The following committee amendment to section 232 was read, and agreed to:

In line 6 strike out the word "code" and insert in lieu thereof the word "title."

The following committee amendments to section 239 were read, and agreed to:

Strike out all of lines 9 to 18, inclusive.
In line 19 strike out the word "second" and insert in lieu thereof the word "first."
After the word "in" strike out the word "other" and insert in lieu thereof the word "all."
In line 36 strike out the word "third" and insert in lieu thereof the word "second."
In line 41 strike out the word "fourth" and insert in lieu thereof the word "third."

The following committee amendments to section 241 were read, and agreed to:

In line 2, after the word "corporation," strike out the words "or a minor."
In line 4, after the word "corporation," strike out the words "or minor."
In line 5, after the word "him," strike out the words "or in the case of a minor, if a guardian for the action has been appointed, then by such guardian."

The following committee amendment to section 243 was read, and agreed to:

After the word "given," in line 6, strike out the words "or before the clerk in vacation by whom the judgment is entered."

The following committee amendments to section 244 were read, and agreed to:

After the word "this," in line 2, strike out the word "code" and insert in lieu thereof the word "title."
After the word "action," in line 2, strike out the words "at law."

The following committee amendment to section 247 was read, and agreed to:

In line 2, after the word "action," strike out the words "at law."

The following committee amendments to section 248 were read, and agreed to:

After the word "persons," in line 3, strike out the words "or by their attorneys."
In line 10, after the word "corporation," strike out the words "or minor."
In line 12, after the word "corporation," strike out the words "or minor."

The following committee amendment to section 250 was read, and agreed to:

After the word "judgments," in line 13, strike out the words "except judgments by default for want of an answer."

The Clerk read as follows:

SEC. 268. If the action be one in which the defendant might have been arrested, as provided by section 98, an execution against the person of the judgment debtor may be issued after the return of the execution against his property unsatisfied in whole or in part, as follows.

Mr. LLOYD. Mr. Chairman, I move to strike out, in section 268, the words "if the action be one in which the defendant might have been arrested, as provided by section 98."

The CHAIRMAN. The Clerk will report the amendment proposed by the gentleman from Missouri.

The Clerk read as follows:

Strike out all of lines 1 and 2 and the word "eight" in line 3, so that the section will commence with the words "an execution against the person."

Mr. WARNER. Mr. Chairman, I do not believe it advisable to strike that out, because I have no doubt on earth but that the chapter on arrest will remain in this bill. I have no doubt that unanimous consent will be asked by the gentleman from Ohio [Mr. GROSVENOR] and others who have opposed it to-day on the floor that that may be reconsidered and voted upon again. I think it will be adopted with an amendment striking out one paragraph in the chapter on arrests, and probably striking out the provision in relation to arrest in an action upon a breach of promise. I think we had better leave this as it is, because I am sure that the chapter on arrests will remain in this bill.

Mr. LLOYD. Mr. Chairman, I take it for granted that this committee will stand by its action, and I think we should act very foolishly to go ahead in the consideration of this bill on the theory that the committee is going to reverse the action that it took to-day. I insist that if we are going to perfect the bill at all we ought to perfect it as we go along, and certainly we now have no section 98. So it would be very improper to refer to that section.

The CHAIRMAN. The question is upon the motion of the gentleman from Missouri [Mr. LLOYD].

The question being taken, on a division there were—ayes 4, noes 8.

Mr. LLOYD. Mr. Chairman, it is not my purpose to obstruct. You understand what I mean by that.

The CHAIRMAN. The Chair will state that we are proceeding by unanimous consent.

Mr. OTJEN. Mr. Chairman——

Mr. LLOYD. I have not expressed what I might express. I think I am understood. I do not yield the floor.

Mr. GIBSON. I suggest that we pass this informally and take it up to-morrow.

Mr. LLOYD. I will consent to that.

The CHAIRMAN. Unanimous consent is asked that this section be passed over without prejudice. Is there objection?

There was no objection.

The Clerk read as follows:

First. When it appears from the record that the cause of action is also a cause of arrest, as prescribed in section 98, such execution may issue of course.

Mr. LLOYD. I hope we will pass over all these sections here.

Mr. WARNER. Let us decide it here and now whether they will have to go out or not. If anybody wants to take the responsibility of obstructing this bill, all right. All these amendments will have to come up again in the House.

Mr. LLOYD. It is very easy to get along here.

The CHAIRMAN. The Chair will state to the committee that we are proceeding by unanimous consent.

Mr. LLOYD. I have intimated that I have no disposition to obstruct legislation, and I have no disposition. We could pass over this section or two until to-morrow just as well as not.

Mr. OTJEN. I do not think we ought to pass over any section.

Mr. LLOYD. I gave notice that I mean what I have indicated.

Mr. WARNER. You can do it so far as I am concerned.

The CHAIRMAN. Unanimous consent was asked to pass these sections.

Mr. LLOYD. All sections that refer to section 98.

The CHAIRMAN. Objection was made by the gentleman from Illinois. Does the gentleman from Illinois withdraw his objection?

Mr. WARNER. I think I withdraw the objection. It is foolish to do so, but I do not object.

The CHAIRMAN. It might be well to understand at this time just exactly what sections it is agreed upon shall be passed.

Mr. LLOYD. All sections that refer to section 98. That will cover it.

The CHAIRMAN. That is not definite enough for the Clerk to understand. Will the gentleman kindly state the pages?

Mr. LLOYD. I am not sufficiently advised to be able to say for the present, but say all paragraphs and sections down to 271.

The CHAIRMAN. Down to section 271?

Mr. LLOYD. Yes, sir.

The CHAIRMAN. Does that mean the present numbering or the numbering when corrected?

Mr. LLOYD. The present numbering.

The CHAIRMAN. The Chair understands that unanimous consent is asked to pass for the present all the provisions of sections 268 and 269, and the Clerk will read section 270, on page 141.

The Clerk read sections 270 and 271.

The Clerk read the following amendment:

Strike out section 271.

Mr. BARNEY. I would like to ask the chairman of the committee having the bill in charge why it was that the section providing for a homestead here is left out of this bill?

Mr. WARNER. My recollection is that there is another chapter in the bill defining what a homestead should be.

Mr. BARNEY. Then the new section 271 says:

All other property, including franchises, rights, or interests therein, of the judgment debtor shall be liable to an execution except as in the section provided.

What "other" is that?

Mr. WARNER. That is knocked out, because it is specifically covered in other sections of the bill. "Other" is knocked out as this section provides. I think you will find homestead is defined, what the homestead shall be, and it shall be exempt.

Mr. FINLEY. In what section?

Mr. WARNER. I do not recollect the number of it.

Mr. FINLEY. Would it not be very well to pass over section 271 until we do come to it.

Mr. WARNER. You can do as you like about that.

The CHAIRMAN. The question is on the committee amendment.

Mr. BARNEY. I think, Mr. Chairman, there ought to be an understanding that we will go back to it in case there is no provision for a homestead hereafter, because it is very important, in my judgment. There may be some reason for not exempting the homestead, and we ought to know what there is provided on that subject.

The CHAIRMAN. Does the gentleman from Wisconsin ask that this section be passed?

Mr. BARNEY. I do.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent that section 271, page 141 and page 142, be passed without prejudice. Is there objection? [After a pause.] The Chair hears none, and the Clerk will read.

The committee amendment to section 272 was read, as follows:

Strike out "272" and insert "271" in the first line; and strike out the word "other" in the first line.

The amendment was agreed to.

The amendment to the first paragraph of section 272 was read, as follows:

In line 8, page 143, after the word "debtor," insert the words "the head of a family;" and in line 10 strike out the word "sixty" and insert the word "thirty."

The amendments were agreed to.

The amendment in paragraph 4, line 25, was read, as follows:

Strike out the word "three" and insert the word "six."

The amendment was agreed to.

The amendment to paragraph 5, page 144, was read, as follows:

In line 36 strike out the word "three" and insert the word "six."

The amendment to section 274 was read, as follows:

On page 147, line 8, strike out the word "seventy-four" and insert the word 'seventy-three."

The amendment was agreed to.

The amendment to sections 276, 277, 278, and 279 was read, as follows:

Strike out the sections.

Mr. JONES of Washington. I want to ask the chairman of the committee what provision is made for trying the right to property claimed by a third person under garnishee proceedings?

Mr. WARNER. He has the regular remedy by replevin and intervention.

Mr. JONES of Washington. That is the reason why these sections were stricken out?

Mr. WARNER. It is simply a useless provision, which appears in some of the laws of the States, and amounts to nothing when it is in force.

The amendment was agreed to.

The following committee amendments to section 276 were considered, and agreed to:

In line 6 strike out the word "successively" and insert in place thereof "prior to the day of sale."

In line 9, insert the words "provided there is such post-office within said distance."

In line 12, page 150, strike out the word "successively" and insert "prior to the day of sale."

The following committee amendments to section 280 were considered, and agreed to:

In line 13, on page 152, strike out the words "at law."
In line 16 strike out the words "at law."
In line 21 strike out the words "at law."
In line 27 strike out the words "at law."
In line 34 strike out the words "at law."

The following committee amendment to section 281 was agreed to;

In line 37, page 154, strike out the word "suit."

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 282. If the purchaser of real property sold on execution, or his successor in interest, be evicted therefrom in consequence of the reversal of the judgment, he may recover the price paid, with legal interest and the costs and disbursements of the action by which he was evicted, from the plaintiff in the writ of execution.

Mr. GAINES. I would like to ask the chairman why he uses the term "with legal interest?" I notice over on page 157 that they insert 8 per cent interest. Does the gentleman mean to have 6 per cent interest in the United States and 6 per cent interest in some Territories and 8 per cent in other Territories?

Mr. WARNER. They propose to have a different rate of interest up there. Money is worth more up there than down here, the same as money will draw a higher rate of interest in California and Kansas than in Massachusetts. A legal rate is provided where there is no contract rate.

The committee amendment was considered, and agreed to.

The Clerk, proceeding with the reading of the bill, read as follows:

Second. A creditor having a lien by judgment, decree, or mortgage, on any portion of the property, or any portion of any part thereof, separately sold, subsequent in time to that on which the property was sold.

Mr. GIBSON. I move to strike out the word "decree" in line 7, page 157. We have abolished the word "decree" elsewhere in the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken; and the amendment was agreed to.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 286. A lien creditor may redeem the property within sixty days from the date of the order confirming the sale by paying the amount of the purchase money, with interest at the rate of 10 per cent per annum thereon from the time of sale, together with the amount of any taxes which the purchaser may have paid thereon, and if the purchaser be also a creditor having a lien prior to that of the redemptioner, the amount of such lien with interest.

With the following amendment, recommended by the committee:

In line 4 strike out the word "ten" and insert "eight;" so that it will read "8 per cent per annum."

Mr. GAINES. Mr. Chairman, this section reads:

A lien creditor may redeem the property within sixty days from the date of the order confirming the sale, etc.

It seems to me that that is a short length of time for anybody to redeem property. I take it that people in Alaska are no richer than those in this part of the country and that they can not get hold of money any easier there than we can here. I know of no State or Territory where there is any such limitation as sixty days.

I dare say the gentleman from Tennessee [Mr. GIBSON], who is the author of a standard work on Equity Pleading and Practice, and also the Law of Redemption, knows of no such law as giving a man only sixty days to redeem property. I should like to ask the chairman if he does not think sixty days is too short a time in Alaska, when it is so far away from the United States. Most of the people go there from this country, or other countries farther away, and they can not get from here there in sixty days. I move to strike out "sixty days" and put in "six months," unless the chairman can give me some good reason why the change should not be made.

Mr. WARNER. That would tie the property up substantially forever. You want the time of redemption to end at some time. If there are several judgment creditors, each one knows when the prior redemption will expire.

Mr. GAINES. Yes, if he is there; but suppose he is not there?

Mr. WARNER. If he is not there, he never will know it until he comes there.

Mr. GAINES. I understand that, but we are not to suppose that everybody is there all the time. A great many people owning property there live in this country.

Mr. WARNER. Sixty days is a long enough time. There may be half a dozen redemptioners, and if you should give six months to each, that would extend the time for redemption to three years, and the property would be tied up that long. I see no reason and no necessity why it should be made more than sixty days. They know when the time is up and can assert their rights in sixty days, which is long enough to let any creditor come in to redeem from a prior creditor.

Mr. GAINES. Mr. Chairman, I withdraw my amendment.

Mr. VANDIVER. Will the chairman inform us whether that refers to property described in section 284 as real property, or only to personal property?

Mr. WARNER. It only applies to real property.

The CHAIRMAN. The question is on the committee amendment.

Mr. VANDIVER. What is the committee amendment?

The CHAIRMAN. To strike out the word "ten," in line 4, and insert "eight," so that it shall read "8 per cent per annum."

Mr. VANDIVER. Mr. Chairman, I move to amend the committee amendment by inserting "six" instead of "eight."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

Mr. VANDIVER. I would like to be heard, Mr. Chairman.

The CHAIRMAN. The gentleman from Missouri.

Mr. VANDIVER Mr. Chairman, I have no disposition to prolong debate or delay the passage of this bill, but I wish to make a few remarks in connection with it. In legislating for that far-off country up there and for the people residing there, we are under a peculiar responsibility; and as we are the only people who can legislate for them, we ought to do so in a spirit of justice and liberality.

I think the tendency of the times everywhere is toward a lower rate of interest. In fact, the accumulation of wealth in the hands of a few people or a few great corporations has been so marked in recent years that the rate of interest naturally falls; it has been somewhat declining through the whole country, and, in fact, throughout the world.

Now, it may be true, as has been said here, that money is worth more up in that country than it is down here among us. That is a comparatively new country. Business is carried on there under more or less speculative conditions, and therefore people probably expect to pay a somewhat higher rate of interest. But looking forward, ought we not to so frame this legislation as that it may have a good tendency in bringing down the rate of interest. Looking to the time when business will be established on a more common basis up there as it is here, will it not be true there, as it is now true here, that 6 per cent will be reasonable?

Mr. GIBSON. Will the gentleman allow me to ask him what is the rate of interest in his State?

Mr. VANDIVER. Eight per cent; that is to say, 8 per cent is the limit; 6 per cent is the legal rate in the absence of any special contract; 8 per cent is allowed under special contract.

Mr. GAINES. In the State of Tennessee it is 6 per cent.

Mr. VANDIVER. If I may be allowed to digress a little——

Mr. WARNER. Oh, do not digress; let us get on.

Mr. VANDIVER. I do not expect to occupy more than a few minutes.

The CHAIRMAN. The gentleman from Missouri is entitled to the floor.

Mr. VANDIVER. Let me say to the gentleman from Illinois [Mr. WARNER] that this is probably the only time I shall occupy the floor on this bill; so he may content himself in patience for a few minutes.

There are some features of this bill that are to me very objectionable; but the bill has been greatly improved during its consideration in this House. I was glad to recognize the improvement made in the bill to-day, when, by the action of the Committee of the Whole, we agreed to give those people up there a representative; we agreed that they should have a Delegate to represent them on this floor.

I will be frank and say to the gentleman that without such a provision in this bill I should not vote for it; with that provision I think perhaps I may do so; if some other changes which I could name be made, I am sure I will do so. But at any rate I want to say this much, that as the bill was brought in it seemed to me it partook entirely too much of the general tendency of the times toward the exercise of colonial government over distant provinces, which, to my mind, is dangerous; and I say frankly to the gentleman that in that form I could not bring myself to support the bill. The government of distant territory without representation has never proven to be just or wise. The experience of other nations should have taught us better. But our recent experience in Cuba certainly should open our eyes.

Mr. Chairman, to this matter it might be well to call the attention of the country. We find in the public press (what has been admitted by the Administration to be true) that the postal service established on the island of Cuba has been one gigantic steal from its inception to the present time. The Cuban people expected and deserve better things from us.

We were told, and we told them, that, in order to carry out our benevolent purposes, it was necessary that the President of the United States should have the power to appoint the civil and military officers of their government until such time as they should be in a position to establish a government of their own. And right here, Mr. Chairman, I would call your attention to the significance of these two words, "such time," and in doing so I would quote from the distinguished Senator from Maine [Mr. HALE], who, on yesterday on the floor of the Senate, used this expression:

> I think there are very powerful influences in this country—I think they are largely located in New York City, and are largely speculative, connected with money-making corporations—that are determined that we shall never give up Cuba. I think that is the dangerous cloud in the sky. I think that the time will never come, unless something earnest and drastic is done by Congress, when the last soldier of the United States will be withdrawn from Cuban soil.

Mr. Chairman, the light of recent events certainly gives the people of this country and the people of the island of Cuba the right to believe that the fears of this distinguished Senator are to be realized. This steal of half a million dollars, Mr. Chairman, is not likely to inspire any very great degree of confidence in the hearts and minds of the Cuban people; but, sir, it is only a sample of carpetbag government such as has been experienced by every people who have had the unhappy experience to have dealt with it.

Mr. Chairman, it is pertinent to ask at this time, in view of the conditions that now exist, are we acting in good faith? Is the President of the United States acting in good faith when he proceeds to appoint the government officials of the island of Cuba, all of whom are citizens of this country and alien to the country whose government they propose to administer, with fat salaries drawn from the Cuban taxpayers, and who, at least so far as the postal department is concerned, seem to have improved every opportunity for pillage and plunder?

Nor does it all seem to be confined to those employed in the postal branch of our Government, but we have the admission from the Secretary of War that there have been appointed to positions of trust in that little island certain officers of the United States Army—how many we are unable to discover—who, in direct conflict with the Constitution of the United States, if not at the instance, at least with the permission of the Secretary of War, have been allowed a salary for the performance of these duties in addition to that allowed by law as officers of the United States Army.

Mr. Chairman, if I mistake not, the great liberty-loving American people when they assemble at the polls on the first Tuesday of next November will, with the battle cry of 1776, repudiate this unholy purpose for which you have used the great American Government and the disgrace which you have placed upon the Stars and Stripes, the national emblem of this great country, who first demonstrated to the world the possibility of maintaining a "government of the people, by the people, and for the people."

GOVERNMENT BY COMMISSIONS.

In this connection, Mr. Chairman, I again call attention to the number and expense of the commissions which this Administration has found it necessary (or advantageous to politicians out of

a job) to call to its assistance in regulating our conquered provinces, "and for other purposes"—mainly the spending of large sums of money gathered from the people under the plea of war revenue or taxes, which you still refuse to reduce.

It is impossible to give the exact cost of the commissions created by President McKinley. The following is a partial list:

First Philippine Commission (after battle of Manila)	$210,000.00
Second Philippine Commission (Denby, Worcester, and Schurman)	117,500.00
Peace Commission	222,931.34
W. J. Calhoun, special commissioner	7,000.00
Bimetallic Commission	75,000.00
Alger Army Commission	150,000.00
Samoan Commission	50,000.00
Queen's Jubilee Commission	60,000.00
Special Paris Exposition Commission	20,000.00
Reciprocity Commission	30,000.00
Joint High Commission with Canada	210,000.00
Cuba and Porto Rico Evacuation Commission	50,000.00
Hague Peace Commission	35,000.00
Hawaiian Commission	30,000.00
Isthmian Canal Commission	1,000,000.00
Insular Commission	50,000.00
Industrial Commission (labor), per year	150,000.00
Hon. Charles A. Hamlin, special commissioner to Japan	15,000.00
Hon. John W. Foster, special commissioner	30,000.00
Hon. Robert P. Porter, special commissioner to Cuba and Porto Rico	30,000.00

This does not include the new Philippine Commission (Taft commission).

The Postal Commission and California Débris Commission are likewise omitted, and also the Mississippi River Commission and the District of Columbia Commission, as they are under continuing statutes.

It is impossible to give the exact expenses of these commissions, except as to the Paris Commission and the second Philippine Commission. They are charged upon the books of the Treasury Department to national defense and emergency, under the unusual and extraordinary column. Under this head, in the receipts and disbursements for the year 1899, appear, among other items, the following:

Under the head of national defense in the War Department, charged to miscellany, is an item of	$8,889,291.81
Under the head of emergency in miscellany is charged an item of	3,000,000.00
Under the head of Navy miscellaneous, under the item of national defense	6,197,701.02
Under the head of emergency in the Navy Department is an item of	3,856,263.95

These items are put in a lump, and the purposes of such expenditures are not named. The books themselves show these expenditures to be unusual and extraordinary, and they are the only large expenditures which are not itemized.

In these items are contained the expenses of the various commissions, and it seems impossible to learn of what these lump sums consist. All of the expenses given are estimated, except those of the Peace Commission and the second Philippine Commission. Applying the rate of cost known to exist as to these two commissions, it will be seen that the estimates of the other commissions, while based only upon estimates, are probably too low rather than too high.

Government by commission seems to be an expensive luxury. But as the Government has gone into the commission business the people must foot the bills.

Again, Mr. Chairman, I call attention to the unbusinesslike methods of keeping these accounts. It seems to me that large sums of money are being spent and charged up in lump sums, and we do not know what they were paid out for, nor to whom they were paid.

The division of bookkeeping and warrants of the Treasury Department prepares an annual statement of receipts and disbursements of all funds of the United States. This is itemized in amounts from a few cents up to millions of dollars. One column which until very recently had no place in this document now assumes a great deal of importance. I refer to the column designated "Unusual and extraordinary." The items of this department in the report for 1899 aggregate $232,552,172.

In nearly all of the cases very large sums are named and the expenditures are not itemized. It is impossible to tell the exact cost of any of the commissions which have been organized by referring to this document. For example, the Philippine Commission is given in this publication as costing $102,187.34, while the cost, as reported by the President of the United States, is given as $117,185.89. It is an impossibility to discover from this document of receipts and disbursements the amount paid to the International Exposition Commission, which is reported by the President as having cost $396,700.22.

The President on April 16 transmitted a report to the Senate as to the amount paid on account of the Philippine Commission. He does not state the time occupied by the Philippine Commission in fulfilling its duties, but it is well known that it required but a few months. The commissioners received $10,000 in salary and $5,285 in expenses while in the United States, and for expenses in the Philippines they received $9,252.54.

The secretary to that commission received as compensation $8,560, and an additional allowance after he came to this country of $3,660. The balance of the $117,185.89 was expended in office expenses in the Philippines. The secretary of this commission seems to have received a higher rate of salary than any judge of the United States Supreme Court or any member of the Cabinet for the time he was actually employed.

The total expense of the Paris Commission, which was instructed to prepare suitable buildings for the United States and to look after the interests of American exhibitors, was $94,699 for the Government exhibit and the building and $302,000 for expenses outside of such construction. Our $94,000 exhibit cost us over $396,000. The temporary services of draftsman consumed $10,477.79, at which rate of compensation it is well that the services were temporary, as, had they been permanent, they would have soon exhausted the surplus in the United States Treasury. The traveling expenses footed up $53,397.38.

A very considerable amount of this was paid for trips to Paris of persons not at all attached to the commission except by ties of relationship and friendship. A son of the commissioner-general received $498.46, although not employed by the commission. It would be interesting to know whether or not any of the other gentlemen who were furnished with transportation are related to the commissioner-general. An interesting fact appears as to the comparative rents of Chicago, New York, and Paris.

The work of the commission was supposed to be principally in Paris. They paid in Paris $3,049.50 for rent. They paid in New York, where they opened their offices two months before opening their offices in Chicago and Paris, $4,159.59. They paid in Chicago for rent $10,734.88. This is 5 per cent interest on $200,000 worth of property for mere temporary offices. The Government would have saved money to have bought a building suitable for their purposes. There was paid out for salaries $167,768.63. Over $80,000 is not itemized, but is thrown into the miscellaneous column. This disposition to place large sums under the head of generic terms will not prove popular with the people, who want to keep some track of the public funds expended by public officials.

In conclusion, Mr. Chairman, this whole scandal in Cuba is only what we may expect in Porto Rico, in Hawaii, in Alaska, and in the Philippines if we continue to impose our carpetbag governors upon those people without giving them representation here. It is the same old story of colonial misgovernment—"taxation without representation."

Ex-Senator Henderson has recently put the whole matter in clear light in the following language:

CONSTITUTION IGNORED.

Why should we be surprised, then, at the recent defalcations and embezzlements in Cuba? Are they not the legitimate consequences of a gross and radical departure from the Constitution, on which our institutions and our hopes of fidelity and purity of administration are based? Look at the order of the President, made through the Postmaster-General in July, 1899, under which Mr. Rathbone's administration as director-general of posts in Cuba has been conducted. Upon him alone is conferred unlimited authority to establish post-offices and to appoint postmasters and fix their compensation.

He has unrestrained authority to establish post routes and fix the compensation of all persons and companies carrying the mail. He is to make all contracts touching the questions of transportation and distribution of the mail, and his power is equally unlimited to collect and disburse all moneys arising from that service in Cuba. Under this order he combines in himself, as regards this subject, all the functions of the legislative and executive departments of our Government on an island containing 2,000,000 people. His sole will is the law. He is made an absolute monarch. No such autocracy exists on earth. He is to collect millions of dollars and expend it as his own sweet will may dictate.

There is no one to inspect his accounts. He is authorized to collect and to hold and disburse as his own treasurer. He can disburse without an act of appropriation. He can pay out without a warrant. The lamentable part of this whole matter is that he who invokes constitutional limitations to restrain this wild delirium is no better than a traitor against his Government. After a while the traitors will probably be in the majority and then, as heretofore in this uncertain world of ours, treason will again become respectable.

Mr. GIBSON. In reference to the rate of interest, allow me to say it is a notorious fact that, starting with the city of New York, where the rate of interest is lower than anywhere else in the United States, the rate continues to increase as we go westward. In the old States the rate of interest is much lower than it is in the new States. In the district of Alaska the rate of interest is practically from 25 to 50 per cent, and the rate fixed by the committee is very unsatisfactory to the people of Alaska, who wish it much higher than 8 per cent. They prevailed on the Senate committee to fix it at 10 per cent, but the majority of the House committee thought it best to reduce the rate to 8 per cent. That, I am sure, is a fair compromise.

Mr. GAINES. Is there no provision in this bill to fix a limit on the rate of interest?

Mr. GIBSON. It may be 12 per cent by contract.

Mr. GAINES. In other words, the usurer is given about everything he wants.

Mr. GIBSON. Yes, and more, too. [Laughter.] At what rate does the gentleman lend money in Tennessee?

Mr. GAINES. I never lend it at any illegal or oppressive or gouging interest, and never will.

Mr. GIBSON. I am very glad to hear that.

Mr. GAINES. And I never will be a party to any law that authorizes it.

Mr. GIBSON. I am proud of the gentleman. [Laughter.]

Mr. JONES of Washington. Mr. Chairman, in the State of Washington eight or nine years ago the rate of interest that might be charged was 2 or 3 per cent a month. Now the rate has been cut down so that, by contract, as much as 12 per cent may be charged, while the legal rate, outside of any special contract, is 7 per cent. It seems to me that this rate of interest here on redemption is really too low.

Mr. GAINES. It would seem that the statement of my colleague, that the farther west you go the higher the rate of interest becomes, must be incorrect.

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. VANDIVER. I call for a vote on the amendment that I offered.

The CHAIRMAN. The question is on the motion of the gentleman from Missouri to amend the amendment of the committee.

The amendment to the amendment was rejected.

The committee amendment was agreed to.

The following amendments to section 287, as renumbered, were read, and agreed to:

In line 4 strike out the word "ten" and insert in lieu thereof the word "eight."

In line 13 strike out the word "ten" and insert in lieu thereof the word "eight."

The following committee amendment to section 288, as renumbered, was read, and agreed to:

In line 4 strike out the word "ten" and insert in lieu thereof the word "eight."

The following committee amendment to section 289, as renumbered, was read, and agreed to:

In line 1, after the word "be," insert the word "not."

The following committee amendment to section 290, as renumbered, was read:

In line 3, after the word "redeemed," strike out the words "shall give the purchaser or redemptioner, as the case may be, two days' notice of his intention to apply to the marshal for that purpose, at the time and place specified in such notice to such person."

Mr. JONES of Washington. Mr. Chairman, I move to strike out the last word, for information. This amendment here strikes out the notice required to be given to the party from whom redemption is to be made. The section as amended provides that the money shall be paid to the marshal, and further over in the section it is provided that the marshal shall immediately pay the money over to the person from whom the property is redeemed, if he attend at the redemption, and if he does not attend, then when demanded. It seems to me there ought to be some provision giving notice to the person from whom redemption is made that the redemption has been made. Suppose redemption is made within ten days. There would still be a period of two or three months in which redemption could be made.

Mr. TOMPKINS. What difference does it make as long as the redemptioner gets his money?

Mr. JONES of Washington. There is nothing to show but what the marshal might keep the money until the full time of redemption had expired.

Mr. WARNER. The committee had in mind the fact, which was represented to us by the gentlemen from Alaska who appeared before the committee, that in many cases the judgment creditor would be a nonresident, living in New York or London, in these big mining cases, and it would be impossible to serve notice on him, and they thought that the plaintiff would follow up his remedy and himself watch for the redemption.

If it is not redeemed within the time specified, of course he would be entitled to a deed; but if you put in a provision specifying that the judgment creditor should be notified before the redemption could be made, probably it never could be made, because they would not be able to serve notice on him. It is not as it is in our country, where the people are all at home.

Mr. JONES of Washington. I know that; but suppose the purchaser or the party from whom redemption is made lives in the district. The marshal gives him no notice. He does not know whether redemption is made or not. The marshal can hold the money and use it for the whole unexpired term.

Mr. WARNER. That will not be likely to hurt anybody very much. The judgment creditor will be apt to look out for his rights in the case and get his money as soon as he can.

Mr. TOMPKINS. The marshal is an officer of the court, so that the party would be amply protected and could get his money at any time.

Mr. JONES of Washington. But the party likes to get his money as soon as he can, and in the absence of any notice to him the money might be paid to the marshal and the marshal might hold it for a considerable time.

Mr. TOMPKINS. He can inquire of the marshal whether there has been a redemption or not.

Mr. JONES of Washington. He can not do it every day or two, or every week or two.

Mr. TOMPKINS. It would be easier for him to do that than for the person who wants to redeem to give him notice.

Mr. JONES of Washington. I think the marshal should be required to give notice as soon as possible that redemption has been made.

Mr. TOMPKINS. I see no objection to that.

Mr. JONES of Washington. I move an amendment, after the word "thereof," in line 10, to insert "and shall at once give notice of such redemption to the party from whom redeemed."

Mr. TOMPKINS. That is right.

Mr. WARNER. I do not know of any State where the officer receiving the redemption money is required to notify the judgment creditor.

Mr. JONES of Washington. In the State of Washington the person who is going to redeem must give notice, as this first provided.

Mr. WARNER. Notice to the judgment creditor.

Mr. JONES of Washington. Yes; of course somebody ought to give notice.

Mr. LACEY. What is the advantage of giving notice?

Mr. JONES of Washington. To let the man know that the marshal has the money.

Mr. LACEY. Why should not the marshal give notice?

Mr. JONES of Washington. There is no objection to that.

The CHAIRMAN. The question is first on the committee amendment. The Chair understands that the amendment of the gentleman from Washington does not come in as an amendment to the amendment.

Mr. JONES of Washington. No.

The committee amendment was agreed to.

The CHAIRMAN. The question now is on the amendment of the gentleman from Washington, which the Clerk will report.

The Clerk read as follows:

In line 10, after the word "thereof," insert the words "and shall at once give notice of such redemption to the party from whom redeemed."

Mr. WARNER. That is all right.

The amendment was agreed to.

The following further committee amendments to section 290 as renumbered were read, and agreed to:

Strike out lines 13 and 14.

In line 15 strike out the word "second" and insert in lieu thereof the word "first."

In line 16, after the word "judgment," strike out the words "or decree."

In line 18 strike out the words "or decree."

Mr. LLOYD. Was the amendment striking out lines 13 and 14 acted upon?

The CHAIRMAN. That was agreed to.

Mr. LLOYD. I did not notice that.

The following further committee amendments to section 290 as renumbered were read, and agreed to:

In line 20 strike out the word "third" and insert in lieu thereof the word "second."

In line 23 strike out the word "decree."

Page 160, line 24, strike out the word "fourth" and insert in lieu thereof the word "third."

Section 295, as proposed to be amended by the committee, was read, as follows:

SEC. 295. At the time of allowing the order prescribed in section 293, or at any time thereafter pending the proceeding, the court or judge may make an order restraining the judgment debtor from selling, transferring, or in any manner disposing of any of his property liable to execution pending the proceeding. For disobeying any order or requirement authorized by sections 293, 294, and 295 the judgment debtor may be punished as for a contempt.

Mr. GAINES. Mr. Chairman, I move to strike out the last word. Of course, if a litigant were to disobey the order of a court, that of itself would give the court the right to punish him for contempt. Now, is there any particular reason why we should say by statute what the court shall do? I ask that question of my friend who reports the bill. Of course, if he disobeys an order of the court, he is subject to punishment for contempt.

Mr. WARNER. I will state that this is taken from the Oregon law, which is now in force in Alaska. I did not follow the reading of the section as it was being read by the Clerk.

Mr. GAINES. This says if he does not do what the court tells him to do he shall be subject to punishment for contempt. That

would be true even if the statute did no tsay so. Now, I ask, why is there any particular reason for inserting the words "shall be punished for contempt?"

Mr. WARNER. No particular reason occurs to me at this moment, but I presume there is a good reason for it, or it would not be in the Oregon statute, and it would not have been adopted by the Senate and by our committee. It certainly will do no harm, and it is safer to leave it in than to strike it out.

Mr. GAINES. I make no objection. I thought perhaps you had some particular reason.

Mr. WARNER. I do not remember now the particular reason for leaving it in there.

The CHAIRMAN. The pro forma amendment of the gentleman from Tennessee is withdrawn. The question is on the committee amendments.

The committee amendments to section 295, as renumbered, were agreed to.

The Clerk read as follows:

SEC. 296. Instead of the order requiring the attendance of the judgment debtor, as provided in the last two sections, the court or judge may, upon *proof by* affidavit of the party, or otherwise to his satisfaction, that there is danger of the debtor leaving the district, or concealing himself therein, and that there is reason to believe he has property which he unjustly refuses to apply to such judgment, issue a warrant requiring the marshal to arrest him and bring him before the court or judge. Upon being brought before the court or judge he may be examined on oath, and if it then appear that there is danger of the debtor leaving the district, and that he has property which he unjustly refused to apply to such judgment, he may be ordered to enter into an undertaking with one or more sureties that he will from time to time attend before the court or judge, as may be directed, and that he will not, during the pendency of the proceedings, dispose of any portion of his property not exempt from execution. In default of entering into such undertaking he may be committed to jail by warrant of the judge.

Mr. GAINES. Mr. Chairman, that section is evidently the offspring of one stricken from the statute this afternoon, and gives the court the right to send a marshal out after a man and bring him in bodily before the court, make him stand up, and ask him if he has any money on his person, and if so to turn it over to this creditor. It is clearly reprehensible, and right in the teeth of the action of the committee at an earlier hour of the day; and I move to strike out the whole section.

Mr. LACEY. This is a different proposition, supplemental to judgment.

Mr. GAINES. I understand that.

Mr. LACEY. I think you will find a similar provision in the statutes of the State of Tennessee.

Mr. GAINES. There is no such statute in the State of Tennessee, and I hope there never will be.

Mr. LACEY. Do you not have a method of enforcing an execution where a person has property and refuses to turn it out on an execution of the court?

Mr. BARTLETT. Not by putting him in jail.

Mr. GAINES. Not by putting him in jail.

Mr. LACEY. You put him in jail if he refuses to obey an order of the court, which is a contempt of the court. I do not think there is a State in the Union that has not a statute of this kind applied to executions, where the debtor has property but refuses to turn it out. Now, when he refuses to pay, there is not a State in the Union that has not authority to bring the debtor in and compel him to turn his property over.

Mr. GAINES. Compel him, how?

Mr. LACEY. Send him to jail.

Mr. GAINES. Send him to jail until he gives up the property?

Mr. LACEY. He has committed contempt of court.

Mr. GAINES. There is no such law in Tennessee, and ought not to be.

Mr. LACEY. There ought to be such a law in Tennessee, as that State is generally up to date.

Mr. GAINES. If a third party is suspected of having the property, you can summon him to show whether he has or not.

Mr. LACEY. Why should it be made the duty to put the third person in jail for somebody else's refusal to pay the debt on which an execution has been made? Here is a refusal to turn over the property. He takes the property and conceals it and refuses to turn it over. Now, suppose that an officer goes out to one of your farms to levy on a herd of cattle and the owner runs the cattle away and refuses to deliver them over. Do you mean to say that he may not be punished for contempt?

Mr. GAINES. Suppose he says "I am not concealing my property," and suppose he says he has got no property. Then, under this statute, he can be put in jail, and he will lie in jail as a regular jail bird for the balance of his life.

Mr. LACEY. But this relates to property which he refuses to turn out.

Mr. GAINES. Well, supposing he has no property.

Mr. LACEY. He has refused to obey the writ.

Mr. GAINES. Suppose the testimony against him is absolutely false. This still empowers the court to put him in jail.

Mr. LACEY. I have no doubt the gentleman has seen men sent to the penitentiary in Tennessee on false testimony.

Mr. GAINES. And there is a whole lot in Iowa that ought to be sent there.

Mr. LACEY. What I am trying to do is to bring the matter to my friend's mind in such a way that he would appreciate it better, and that is the reason I referred to the State of Tennessee.

Mr. GAINES. I understand that.

Mr. LACEY. I thought that by referring to a law that they doubtless had in Tennessee I would appeal to the gentleman better.

Mr. GAINES. In this instance the gentleman from Tennessee is at work here with a handful of patriots who are endeavoring to bring relief to these people up there from imprisonment, and instead of that the gentleman is insisting on putting more in for debt.

Mr. LACEY. A man who refuses to turn out property on an execution is violating his duty as a citizen.

Mr. GAINES. But suppose he comes up and says he has no property, and is not concealing it, still under that statute you can arrest him and put him in jail.

The CHAIRMAN. The time of the gentleman from Iowa has expired. The question is on the motion of the gentleman from Tennessee to strike out section 296, commencing on page 162.

The question was taken; and the amendment was rejected.

The Clerk proceeded to read section 297.

Mr. BARTLETT. Mr. Chairman, I am not familiar enough with this bill to know whether there is anything in it that requires the plaintiff, before he institutes the proceedings, to bring the defendant into court and make him give bond. In other words, when he is arrested and when he is under arrest, in the custody of the marshal, he can be compelled to give bond to appear before the court to answer the charge whether or not he has any property concealed. Is there any provision that it may be done upon proof by affidavit of the party or otherwise?

Mr. WARNER. That comes up in section 296. But it has not been reached. There is a provision that the court can, under certain circumstances when he is concealing his property——

Mr. BARTLETT. I thought we were on section 296.

Mr. WARNER. We are on section 293.

Mr. BARTLETT. I thought it was 296.

Mr. WARNER. Section 293 is the one we have just passed on. Section 293 reads as follows:

SEC. 293. After the issuing of an execution against property, and upon proof by the affidavit of the plaintiff in the writ, or otherwise, to the satisfaction of the court, or judge thereof, that the judgment debtor has property liable to execution which he refuses to apply toward the satisfaction of the judgment, such court or judge may, by an order, require the judgment debtor to appear and answer under oath concerning the same before such court or judge, or before a referee appointed by such court or judge, at a time and place specified in the order.

He has had his day in court.

Mr. BARTLETT. I was not mistaken. We have just read section 296.

Mr. WARNER. Oh, no.

Mr. GAINES. The Clerk had commenced reading section 297.

The CHAIRMAN. The gentleman from Tennessee moved to strike out section 296.

Mr. WARNER. I understood the gentleman to say we had reached section 293.

Mr. LACEY. I understood it was section 293.

Mr. GAINES. I was discussing 296, and the gentleman from Iowa was discussing 293.

Mr. WARNER. I was answering the questions of the gentleman from Tennessee.

Mr. GAINES. Yes; but my friend Mr. LACEY had in mind section 293.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word of section 296.

Mr. WARNER. The gentleman can not amend that section, for that has been passed.

The CHAIRMAN. The gentleman states that he was under a misapprehension.

Mr. BARTLETT. If the gentleman wants to make a technical point on that, I will wait.

Mr. WARNER. I do not wish to do that if the gentleman wishes to make any remarks.

Mr. BARTLETT. Mr. Chairman, I have no great concern about this bill except that we are enacting laws for a people who, under our Constitution, are not permitted to enact laws for themselves. Although they are few and far away from us in distance, we ought to see to it that laws that are harsh and not just are not put upon them.

Now, this section, I recognize, is in a measure correct. I recognize that it is right; that the court, upon proper proof before proceeding is instituted, ought to have the right to call the debtor before him and subject him to examination; and if it appears that

the debtor has property concealed, he ought to be compelled to answer the judgment of the court.

But there ought to be some provision in the act that authorizes that sort of harsh proceeding which would permit a man thus arrested to be indemnified for damages in case the proceedings were improper or wrong or not sustained. There ought to be something in this section by which a person who puts in motion the harsh and cruel machinery of the court to arrest him, to put him in jail, should be required to give a bond, or something of that sort, to answer in damages.

Every time a man has a judgment against another it does not follow that he is solvent. A man may go and make an affidavit on information and belief that he believes a man is concealing his property and endeavoring to defraud his creditors.

Mr. LLOYD. Is it not true here that the controversy is between the court and the debtor, that he is answering for contempt to the court; and if he is answering for contempt to the court, the court ought not to be required to give a bond.

Mr. BARTLETT. The gentleman is on another section. I am talking about section 296. That provides, instead of the court requiring the attendance of the judgment creditor, the court may, upon proof and affidavit of whom? The party. It must be a party to the suit, a party to the judgment.

So that the party to the judgment may institute a proceeding against the debtor simply by making an affidavit and nothing more; and may have him dancing in attendance day after day, week in and week out, undergoing the mortification and embarrassment and humiliation of being in jail or in custody of the officer, in the hands of the sheriff, and when he gets out, if the affidavit was groundless and the creditor—who in many instances resorts to extreme measures in order to force the debtor to pay or compromise or settle—when the debtor gets out and has made a full exhibit, after he has been in jail in custody of the sheriff and the judge has finally determined that he has no property; that he is nothing but a poor insolvent debtor and nothing to pay with, he is turned out without any redress, without any indemnity, with simply the right to sue, perhaps, an insolvent creditor.

Now, Mr. Chairman, I shall not offer any amendment. I do not desire to embarrass the bill, but it occurs to me that we are legislating for a people for a long time, and we ought to be careful how we put that sort of a measure on the statute book.

Mr. WARNER. For the benefit of the gentleman from Georgia and others not acquainted with the fact, I will state that they had a convention in Alaska, and they appointed a committee on this civil code and code of civil procedure, and it was submitted by that convention to the committee, and they went over the civil code and the code of civil procedure and made a report.

Mr. GIBSON. And they were in session ten days.

Mr. WARNER. I do not remember the number of days, but some time. They suggested such amendments as they wanted, and this committee of the House has adopted nearly every amendment they suggested. This law which we are now reading is one which the people up there want. They have been acting under it since 1884. They wish to have that law remain as it is and as it appears in this bill. The people up there are making no complaint whatever about anything with reference to it. We have acceded to nearly everything they wish. It will be entirely satisfactory to them I know from their representations verbally and by this report.

Mr. BARTLETT. The gentleman I know does not expect that those people who are now in Alaska are the only people to be governed by this bill when it becomes a law.

Mr. WARNER. No; but when other people go there and the conditions change the law will probably be changed.

Mr. BARTLETT. It is very hard to change the law in the interest of the debtor, especially in a new country.

Mr. WARNER. We are changing it now to some extent.

The Clerk read as follows:

SEC. 297. Whenever the marshal, with an execution against the property of the judgment debtor, shall apply to any person or officer mentioned in subdivision 3 of section 139 for the purpose of levying on any property therein mentioned, such person or officer shall forthwith give to the marshal a certificate in the manner prescribed in section 142. If such person or officer refuse to do so, or if the certificate be unsatisfactory to the plaintiff in the writ, he may in like manner have the order prescribed in such section against such person or officer. Thereafter the proceeding upon such order shall be conducted in the manner prescribed from section 152 to section 161, inclusive.

The following amendments of the committee were read, and agreed to:

In lines 12 and 13 strike out "fifty-two" and insert "fifty-one."
In line 13 strike out "sixty-one" and insert "sixty."

The Clerk read as follows:

SEC. 298. No public officer shall be liable as garnishee for moneys in his possession as such officer, belonging to or claimed by any judgment debtor.

CHAPTER 32.

OF ACTIONS AT LAW IN PARTICULAR CASES.

The following amendment of the committee was read, and agreed to:

After line 3 strike out "Chapter 32. Of actions at law in particular cases."

The Clerk read as follows:

SEC. 299. Any person who has a legal estate in real property, and a present right to the possession thereof, may recover such possession, with damages for withholding the same, by an action at law. Such action shall be commenced against the person in the actual possession of the property at the time, or, if the property be not in the actual possession of anyone, then against the person acting as the owner thereof.

The following amendment of the committee was read, and agreed to:

In line 4 strike out "at law."

The Clerk read as follows:

SEC. 300. A defendant who is in actual possession may, for answer, plead that he is in possession only as tenant of another, naming him and his place of residence; and thereupon the landlord, if he apply therefor, shall be made defendant in place of the tenant, and the action shall proceed in all respects as if originally commenced against him. If the landlord do not apply to be made defendant within the day the tenant is allowed to answer, thereafter he shall not be allowed to, but he shall be made defendant if the plaintiff require it. If the landlord be made defendant on motion of the plaintiff, he shall be required to appear and answer within twenty days from notice of the pendency of the action and the order making him defendant, or such further notice as the court or judge thereof may prescribe.

The following amendment of the committee was read, and agreed to:

In line 13 strike out "notice" and insert "time."

Mr. JONES of Washington. I observe that the section just read provides that—

A defendant who is in actual possession may, for answer, plead that he is in possession only as tenant of another, naming him and his place of residence; and thereupon the landlord, if he apply therefor, shall be made defendant in place of the tenant, and the action shall proceed in all respects as if originally commenced against him.

Is there any reason why the plaintiff ought not to be required, when the name and residence of the landlord have been given by the tenant, to make the landlord a party to the action?

Mr. WARNER. If action is brought against the tenant, that does not bind the landlord. If the landlord desires to be made defendant, he can be; and if he does not so desire, the plaintiff may make him a defendant and compel him to answer.

Mr. JONES of Washington. Suppose the landlord has no notice of the action.

Mr. WARNER. Then he would not be bound by it.

Mr. JONES of Washington. But should not the plaintiff, when advised that the person against whom the action has been brought is a tenant, and when furnished with the name and residence of the landlord, be required to bring suit against the landlord?

Mr. WARNER. You can not compel the plaintiff to make new parties to the action unless he wants to. If the plaintiff is informed that the person against whom suit has been brought is merely a tenant, and that another man is the owner of the property, the plaintiff may make the actual owner a party or not as he chooses.

Mr. JONES of Washington. May there not be collusion between the plaintiff and the tenant to get possession of the property? The landlord may be absent and may not know of the action.

Mr. WARNER. Then the action will not bind the landlord. I think the section is all right.

Mr. BARNEY. Is there not a verbal error where this section reads "if the landlord do not apply to be made defendant within the day?"

Mr. WARNER. That means "within the day of answer; within the day that the rule expires." I think that the gentleman will find that the language of the section is all right.

The Clerk read as follows:

SEC. 304. The plaintiff shall only be entitled to recover damages for withholding the property for the term of six years next preceding the commencement of the action, and for any period that may elapse from such commencement to the time of giving a verdict therein, exclusive of the use of permanent improvements made by the defendant. When permanent improvements have been made upon the property by the defendant, or those under whom he claims, holding under color of title adversely to the claim of plaintiff, in good faith, the value thereof at the time of trial shall be allowed as a set-off against such damages.

The following committee amendments were read, and agreed to:

In lines 10 and 11 insert "not exceeding such damages."
In line 11 strike out "against such damages."

The Clerk read as follows:

SEC. 309. A mortgage of real property shall not be deemed a conveyance so as to enable the owner of the mortgage to recover possession of the real property without a foreclosure and sale according to law, and a decree thereon.

The following committee amendment was read, and agreed to:

In line 4 strike out "decree" and insert "judgment."

The Clerk read as follows:

SEC. 314. In an action to recover the possession of real property by a tenant in dower or his successor in interest, if such estate in dower has not been admeasured before the commencement of the action, the plaintiff shall not

have execution to deliver the possession thereof until the same be admeasured, as follows:

First. At any time after the entry of judgment in favor of the plaintiff, he may, upon notice to the adverse party, move the court for the appointment of referees to admeasure the dower out of the real property of which the possession is recovered by the action. The court shall allow such motion unless it appear probable on the hearing that a partition of such property can not be made without prejudice to the interests of the other owners. In the latter case the court shall disallow the motion, and thereafter the plaintiff shall only proceed for partition or sale of such real property as provided in the chapter of this code entitled "Of suits for the partition of real property;"

Second. If the court allow the motion, thereafter the proceedings shall be conducted as provided in such chapter. At any time after the confirmation of the report of the referees the plaintiff may have execution for the delivery of the possession of the property according to the admeasurement thereof, and for the damages recovered, if any, for withholding the same, if such damages remain unsatisfied;

Third. If the motion for admeasurement be made at the term at which judgment was given, the notice thereof shall be served on the adverse party at such time as the court by general rule or special order may prescribe.

The following committee amendment was read, and agreed to:

In line 17 strike out "suits" and insert "actions."

The Clerk read as follows:

SEC. 315. Any person whose property is affected by a private nuisance, or whose personal enjoyment thereof is in like manner thereby affected, may maintain an action at law for damages therefor. If judgment be given for the plaintiff in such action, he may, in addition to the execution to enforce the same, on motion, have an order allowing a warrant to issue to the marshal to abate such nuisance. Such motion must be made at the term at which judgment is given, and shall be allowed of course, unless it appear on the hearing that the nuisance has ceased, or that such remedy is inadequate to abate or prevent the continuance of the nuisance, in which latter case the plaintiff may proceed in equity to have the defendant enjoined.

The following committee amendments were read, and agreed to:

In lines 3 and 4 strike out "at law."
In lines 12 and 13 strike out "in equity."

The Clerk read as follows:

SEC. 318. If the plaintiff is not notified of the time and place of the application for the order provided for in section 323 the sureties therein provided for shall justify as bail upon arrest, otherwise such justification may be omitted, unless the plaintiff require it. If such order be made and undertaking given, and the defendant fails to abate such nuisance within the time specified in said order, thereafter, at any time within six months, the warrant for the abatement of the nuisance may issue as if the same had not been stayed.

The following committee amendment was read, and agreed to:

In line 3 strike out "twenty-three" and insert "seventeen."

The Clerk read as follows:

SEC. 319. If a guardian, tenant in severalty or in common for life or for years, of real property, commit waste thereon, any person injured thereby may maintain an action at law for damages therefor against such guardian or tenant, in which action there may be judgment for treble damages, forfeiture of the estate of the party committing or permitting the waste, and of eviction from the property. But judgment of forfeiture and eviction shall only be given in favor of the person entitled to the reversion against the tenant in possession when the injury to the estate in reversion is determined in the action to be equal to the value of the tenant's estate or unexpired term, or to have been done or suffered in malice.

The following committee amendment was read, and agreed to:

In line 4 strike out "at law."

The Clerk read as follows:

SEC. 323. When a public officer, by official misconduct or neglect of duty, shall forfeit his official undertaking or other security, or render his sureties therein liable upon such undertaking or other security, any person injured by such misconduct or neglect, or who is by law entitled to the benefit of the security, may maintain an action at law thereon in his own name, against the officer and his sureties, to recover the amount to which he may by reason thereof be entitled.

The following committee amendment was read, and agreed to:

In line 6 strike out "at law."

The following committee amendment to section 327 as renumbered was read, and agreed to:

In line 2 strike out the words "at law."

The following committee amendment to section 330 as renumbered was read, and agreed to.

In line 1 strike out the words "at law."

The following committee amendments to section 332 as renumbered were read, and agreed to:

In line 3, after the word "officer," insert the words "agent or attorney."
In line 9, after the word "the," strike out the word "docket" and insert in lieu thereof the word "record."

The following committee amendment was read, and agreed to:

On page 180, strike out all of old section 341.

The following committee amendment to section 334 as renumbered was read, and agreed to:

In line 4, after the word "by," insert the word "an;" and after the word "action" strike out the words "at law."

The following committee amendments to section 335 were read, and agreed to:

In line 1 strike out the words "at law."
In line 2 strike out the word "district" and insert in lieu thereof the words "the United States."
In line 3 strike out the word "thereof."

Mr. GAINES. Mr. Chairman, I move to strike out the last word. I object to giving the sole power to the governor to proceed against corporations that are incorporated illegally or that are acting ultra vires. By the provisions of this section an action may be maintained in the name of the United States whenever the governor shall so direct.

Now, Mr. Chairman, I believe that all power is inherent in the people. I think they have just as much right, when suffering from these creatures that exceed their rights or that have no rights at all, as the governor or President or anyone else. So I want to extend the right to the people who are not governors or judges or Presidents or other officials, and I move to insert after the word "direct" the words "or on application of any person or persons, or corporations or associations, or by and in behalf of the United States."

Mr. TOMPKINS. What section is that?

Mr. GAINES. Section 335, page 181. That would give to individuals or corporations or associations that have the right to exist the right to proceed against a corporation that is going beyond the limitations of the law. I am glad to see that both parties in the House here have reported a bill on the trust question, taking away from the Attorney-General of the United States the sole right to say when and how suits shall be filed against trusts, etc., under the interstate-commerce law of 1890. This is right along upon the same idea.

Now, a corporation can do wrong, and so can individuals, as far as that is concerned. I am not speaking of corporations in a demagogical way at all. I am speaking seriously, because I feel that way about this law. If this amendment, or something similar to this, is agreed to, then the people who are suffering, or who may suffer, or associations that cry out against these lawless creatures, will have the right to go into court and say, "I demand that this charter be taken away from this concern; it was fraudulently procured;" or to charge that it is doing this, that, or the other illegal thing. Now, Mr. Chairman, that is my amendment.

The CHAIRMAN. The gentleman from Tennessee submits an amendment which the Clerk will report.

The Clerk read as follows:

Insert after the word "direct," in line 3, the words "or on application of any person or persons, or corporation or association, or by and in behalf of the United States."

Mr. WARNER. Mr. Chairman, I hardly think that we should allow any individual, however irresponsible, to force the United States into a lawsuit against any corporation or body that he sees fit without being responsible for any costs or anything else. I am of the opinion that the section is correct as it stands, that the action should only be taken when the governor shall direct—that is, an action to dissolve a corporation, and so forth, in the name of the United States.

Private individuals can commence suits in their own names and be responsible for costs and pay their attorney fees, but they should not be allowed to commence suits indiscriminately, in the name of the United States, to satisfy a spite or something of that kind. Even where the case is meritorious they can lay their complaint before the governor, and if the governor refuses to act, then there is a way to reach him.

Mr. GAINES. How will you reach the governor if he says he will not order a suit?

Mr. WARNER. You can very easily reach him by making complaint to Washington, to the Department of Justice or the President of the United States, setting up the fact that the governor refuses to act. I go on the theory that a man who is appointed governor of that district or of a Territory is an honorable gentleman, and that he will do what is correct and proper under the circumstances. I do not believe that because a man is appointed to such a high office he immediately becomes corrupt or the tool of corporations or individuals.

Mr. GAINES. Well, I agree with you there.

Mr. LLOYD. I want to call the attention of the gentleman to this fact——

Mr. WARNER. In a moment I will yield to the gentleman. The gentleman from Tennessee will find on the next page a provision where individuals can commence suit under certain circumstances against associations.

Mr. GAINES. Where is that section?

Mr. WARNER. That is not to annul corporations. It applies to associations and persons. Now I will yield to the gentleman from Missouri [Mr. LLOYD].

Mr. LLOYD. If the gentleman will permit me, section 337 and also section 338 provide that actions may be instituted by private parties.

Mr. GAINES. That will affect the validity of charters.
Mr. LLOYD. I think so.
Mr. GAINES. If the gentleman will read that, I will be entirely satisfied.
Mr. LLOYD. Section 337 provides that—

An action may be maintained in the name of the district upon the information of the United States attorney or upon the relation of a private party against the person offending in the following cases—

Giving the cases. Then section 338 says:

SEC. 338. The actions provided for in this chapter shall be commenced and prosecuted by the United States attorney. When the action is upon the relation of a private party, as allowed in section 337, the pleadings on behalf of the district shall be verified by such relator as if he were the plaintiff in the action, or otherwise as provided in section 70; in all other cases such pleading shall be verified by the attorney in like manner, or otherwise as provided in such section—

And so forth.
Mr. GAINES. Then I will withdraw my amendment, because that covers the very matter I had in mind.
The CHAIRMAN. Without objection, the amendment of the gentleman from Tennessee will be withdrawn.
Mr. GAINES. I ask unanimous consent to insert in the RECORD a clipping that I have of a part of a paper read by Justice Harlan before the University of Pennsylvania a few days ago, touching upon the powers of the President and other officers under the limitations of the Constitution.
The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to print in the RECORD as a part of his remarks a newspaper clipping. Is there objection?
Mr. TOMPKINS (from his seat). I object.
Mr. GAINES. Who objected?
The CHAIRMAN. Objection was made. The Chair is unable to state by whom.
Mr. BARTLETT. There is no objection unless the member making the objection rises.
Mr. GAINES. No one rose from his seat.
The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?
Mr. TOMPKINS (rising). I object.
The CHAIRMAN. Objection is made. The Clerk will proceed.
The following committee amendment to section 336, as renumbered, was read:

In line 1 strike out the words "at law."
In line 14 insert, after the word "exercise," the words "for a period of one year."

Mr. GAINES. I move to strike out the last word. Here is what I want to read:

Justice Harlan, of the Supreme Court of the United States, a lifelong Republican, delivered an address last week at the dedication of the new law building of the University of Pennsylvania, at Philadelphia, from which we make the following extract, wherein he expressed his condemnation of the efforts of the Administration [HANNA'S] to apply the principles of this Republic to a colonial vassal policy:
"Our sovereign is not he who for the time wields the executive power of the United States. Our sovereign is the people. They are the source of power and justice in this land. Their will is expressed by written constitutions and by laws passed in pursuance thereof, and to that will all must yield obedience. No man here is so high that he is above the law. No one here assumes to rule by divine right, but only in the mode prescribed by law; and that law comes into existence only by the consent of the people acting by their representatives.
"Our instructions rest emphatically on the sovereignty of the public will. Upon this principle they must always rest, unless in an evil hour, when all the guaranties of freedom have been destroyed, we should return to the exploded theory that the rights of life, liberty, and property are such only as are conceded by those who dominate the people."
But the President does not have to consult the people; he waits for his $pa to tell him.

Mr. TOMPKINS. Mr. Chairman, I rise to a point of order that the gentleman's remarks are not germane to the subject.
The CHAIRMAN. The gentleman from New York rises to a point of order. The gentleman will state his point of order.
Mr. TOMPKINS. I withdraw the point of order.
Mr. GAINES. I have finished what I wished to read, Mr. Chairman. I want to say to my friend that the next time he brings anything here half as good as that I will not object to it, and if he will utter anything one-fourth as good as that I will listen to it.
Mr. BARTLETT. Mr. Chairman, I have an amendment which I desire to offer.
The CHAIRMAN. The gentleman from Georgia offers an amendment, which the Clerk will report.
The amendment was read by the Clerk, as follows:

Amend by adding at the end of line 20, on page 182:
"Sixth. Whenever any such corporation or association of persons shall combine for the purpose of forming a trust or agreement to prevent competition, or to control the price, production, or sale of any goods, products, or merchandise."

Mr. BARTLETT. Now, Mr. Chairman, this section confers upon the courts of the United States——
Mr. GIBSON. I will state to the gentleman from Georgia that we have unanimously agreed to accept his amendment if he will refrain from making a speech upon it. [Laughter.]
Mr. BARTLETT. Do you say you have unanimously agreed to accept it? That is the best speech I could make. I just wanted to put it as an amendment upon this bill. I am glad to know that my friend from Tennessee accepts the amendment so readily and admits it to be a correct proposition that these corporations ought to be dissolved if they form a trust.
The question was taken; and the amendment was agreed to.
The amendment to section 337 was read, as follows:

In line 1 strike out the words "at law."

The amendment was agreed to.
Mr. GIBSON. Mr. Chairman, I move further to amend that paragraph by striking out the word "district," in line 2, section 337, and inserting in lieu thereof the words "United States."
The question was taken; and the amendment was agreed to.
The amendments to section 338 were read, as follows:

In line 4 strike out "forty-five" and insert "thirty-seven;" in line 11 strike out "forty-four" and insert "thirty-six;" in line 15 strike out "forty-five" and insert "thirty-seven."

The amendments were agreed to.
The amendments to section 339 were read, as follows:

On page 2 strike out the word "forty-three" and insert the word "thirty-five."

The amendment was agreed to.
The amendment to section 340 was read, as follows:

In line 3 strike out the word "forty-five" and insert "thirty-seven."

The amendment was agreed to.
The amendment to section 342 was read, as follows:

In lines 6 and 7 strike out the words "at law."

The amendment was agreed to.
The amendment to section 343 was read, as follows:

In line 3 strike out the word "forty-five" and insert "thirty-seven."

The amendment was agreed to.
The amendment to section 344 was read, as follows:

In line 4 strike out "forty-five" and insert "thirty-seven."

The amendment was agreed to.
The amendments to section 348 were read, as follows:

In line 3 strike out "fifty-eight" and insert "fifty;" in line 5 strike out "thirty-eight" and insert "thirty-six;" in line 6 strike out "thirty-three" and insert "thirty-one."

The amendments were agreed to.
The amendment to section 349 was read, as follows:

In line 6 strike out the words "at law."

The amendment was agreed to.
The amendment to section 350 was read, as follows:

In line 3 strike out the words "at law."

The amendment was agreed to.
Mr. FITZGERALD of New York. Mr. Chairman, I offer the following amendment.
The Clerk read as follows.

In section 350, page 188, in line 9, after the word "be," strike out all that follows and insert:
"Exclusively for the benefit of the decedent husband or wife and next of kin; and when any sum is collected it must be distributed by the plaintiff as if it were unbequeathed assets left in his hands, after payment of all debts and expenses of administration; but the plaintiff may deduct therefrom the expenses of the action to be allowed by the proper court upon notice, to be given in such manner and to such persons as the court deems proper."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.
Mr. FITZGERALD of New York. Under the section as it is at present, this action which is given to the personal representatives of the deceased who die from injuries resulting from the negligence of another—the amount that can be recovered can be secured by creditors of the estate. The policy of all States is to give this action for the benefit of the next of kin, the husband or wife or children, and to make this amount free from levy by creditors of the estate. It is not the purpose to create a fund to pay creditors, but a fund to reimburse the parties for any loss they have sustained; and it seems a very proper amendment at this place.
Mr. TOMPKINS. Will the Clerk please read that again?
The amendment was again reported.
Mr. FITZGERALD of New York. It is the provision of the New York code, I will say to the gentleman.
Mr. WARNER. Mr. Chairman, as we want to take some action in the House after the committee rises, and as it is now 23 minutes past 10, I move that the committee do now rise.
The motion was agreed to.
Accordingly the committee rose; and the Speaker pro tempore having resumed the chair, Mr. JENKINS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 3419) making further provision for a civil government for Alaska, and for other purposes, and had come to no resolution thereon.

ORDER OF BUSINESS.

Mr. WARNER. Mr. Speaker, under the rules, to-morrow, commencing at 12 o'clock, is devoted to pensions. We have made good progress with the bill to-night, and we can work on it in the morning a short time before the legislative day begins. Therefore I ask unanimous consent that the House take a recess until 11 o'clock to-morrow morning.

Mr. GAINES. Make it 10 o'clock. Let us get to work early.

Mr. WARNER. I think the Speaker has been notified that we should probably take a recess until 11.

The SPEAKER pro tempore. The Chair understands that the Speaker has not yet been notified.

Mr. WARNER. Then I will ask unanimous consent that we take a recess until 10 o'clock to-morrow.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent that we take a recess until 10 o'clock to-morrow morning. Is there objection? [After a pause.] The Chair hears none.

Accordingly (at 10 o'clock and 30 minutes) the House took a recess until 10 o'clock to-morrow morning.

The recess having expired, the House was called to order by the Speaker at 10 o'clock a. m., Friday, May 25, 1900.

CIVIL GOVERNMENT FOR ALASKA.

Mr. WARNER. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the Alaska bill.

The motion was agreed to; and accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. JENKINS in the chair, for the further consideration of the bill (S. 3419) making further provision for a civil government for Alaska, and for other purposes.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3419) to provide a civil government for Alaska, and the question is on the amendment of the gentleman from New York [Mr. FITZGERALD], which the Clerk will report.

The amendment was again read.

Mr. WARNER. Mr. Chairman, it occurs to me that there should be an amendment to that amendment, and it should read that in case the decedent left a husband or wife or children, that it should go to the husband or wife or children, and in case they left neither, then that it should be intestate. The great majority of the men up in that country now are unmarried. They incur obligations, liabilities, debts, etc., and in a case where they meet with an accident from which death results, leaving no wife or children, I am of the opinion that the money recovered for the death should become a part of his estate and be liable for his debts.

The CHAIRMAN. Will the gentleman from Illinois reduce his amendment to writing?

Mr. WARNER. Let the Clerk proceed with the reading and I will prepare it.

The CHAIRMAN. Without objection, this section will be passed.

There was no objection.

The following committee amendment to section 351 was adopted:

In line 7 strike out the words "except as provided in the next section."

The following committee amendment to section 360 was agreed to:

Strike out all of the section.

The following committee amendment to section 363, old number, was agreed to:

Strike out all of the section.

The following amendment to section 355 as renumbered was agreed to:

In line 4 strike out "such" and insert "the."
In line 5, after the word "month," insert "mentioned in sections 809 and 810."

The following amendment to section 356 was agreed to:

In line 7 strike out the words "at law."

The Clerk read as follows:

SEC. 367. The enforcement or protection of a private right, or the prevention of or redress for an injury thereto, shall be obtained by a suit in equity in all cases where there is not a plain, adequate, and complete remedy at law; and may be obtained thereby in all cases where courts of equity have been used to exercise concurrent jurisdiction with courts of law, unless otherwise specially provided in this chapter. In a suit the party complaining shall be known as the plaintiff and the adverse party as the defendant.

The committee amendment proposing to strike out the whole section was read and agreed to.

The Clerk read as follows:

SEC. 368. Bills of revivor and bills of review, of whatever nature, exceptions for insufficiency, impertinence, or irrelevancy, and cross bills except as hereinafter mentioned, are abolished; but a decree in equity may be impeached and set aside, suspended, avoided, or carried into execution by an original suit. And in an action at law, where the defendant is entitled to relief, arising out of facts requiring the interposition of a court of equity, and material for his defense, he may, upon filing his answer therein, also as plaintiff file a complaint in equity in the nature of a cross bill, which shall stay the proceedings at law, and the case thereafter shall proceed as in a suit in equity, in which said proceeding may be perpetually enjoined by final decree, or allowed to proceed in accordance with such final decree. The mode of proceedings in a suit, from the commencement to the determination thereof, and thereafter until satisfaction or performance of the decree be had, shall be as provided in this code, and not otherwise.

The committee amendment proposing to strike out the whole section was read, and agreed to.

The Clerk read as follows:

SEC. 369. A suit shall only be commenced within the time limited to commence an action as provided in chapter 2 of this code, and a suit for the determination of any right or claim to or interest in real property shall be deemed within the limitations provided for actions for the recovery of the possession of real property; but no suit shall be maintained to set aside, cancel, annul, or otherwise affect a patent to lands issued by the United States, or to compel any person claiming or holding under such patent to convey the lands described therein or any portion of them to the plaintiff in such suit, or to hold the same in trust for or to the use and benefit of such plaintiff, or on account of any matter, thing, or transaction which was had, done, suffered, or transpired prior to the date of such patent, unless such suit is commenced within ten years from the date of such patent. In a suit upon a new promise, fraud, or mistake, the limitation shall only be deemed to commence from the making of the new promise or the discovery of the fraud or mistake: *Provided*, This section shall not be construed so as to bar an equitable owner in possession of real property from defending his possession by means of his equitable title; and in any action for the recovery of any real property, or the possession thereof, by any person or persons claiming or holding the legal title to the same under such patent against any person or persons in possession of such real property under any equitable title, or having in equity the right to the possession thereof as against the plaintiff in such action, such equitable right of possession may be pleaded by answer in such action or set up by bill in equity to enjoin such action or execution upon any judgment rendered therein; and the right of such equitable owner to defend his possession in such action, or by bill for injunction, shall not be barred by lapse of time while an action for the possession of such real property is not barred by the provisions of chapter 2 of this title.

The committee amendments were read, and agreed to, as follows:

In line 1 strike out "a suit" and insert "an action of an equitable nature."
In line 3 strike out "code" and insert "title."
In lines 3 and 4 strike out "a suit" and insert "an action."
In line 7 strike out "suit" and insert "action."
In line 11 strike out "suit" and insert "action."
In line 15 strike out "suit" and insert "action."
In line 16 strike out "a suit" and insert "an action."
In line 30 strike out "bill of equity" and insert "complaint."
In line 33 strike out "bill" and insert "complaint."

The Clerk read as follows:

SEC. 370. Every suit shall be prosecuted in the name of the real party in interest, except as in this section otherwise provided. An executor or an administrator, a trustee of an express trust, or a person expressly authorized to sue by statute, may sue without joining with him the person for whose benefit the suit is prosecuted. A trustee of an express trust within the meaning of this section shall be construed to include a person with whom and in whose name a contract is made for the benefit of another.

The following committee amendments were read, and agreed to:

In line 1 strike out "suit" and insert "action of an equitable nature."
In line 7 strike out "suit" and insert "action."

The Clerk read as follows:

SEC. 359. All persons having an interest in the subject of the suit and in obtaining the relief demanded may be joined as plaintiffs, except as in this chapter otherwise provided. Any person may be made a defendant who has or claims an interest in the controversy adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the questions involved therein.

The following committee amendment was read, and agreed to:

In line 2 strike out "suit" and insert "action."

The Clerk read as follows:

SEC. 360. Of the parties to the suit, those who are united in interest must be joined as plaintiffs or defendants; but if the consent of anyone who should have been joined as plaintiff can not be obtained, he may be made a defendant, the reason thereof being stated in the complaint; and when the question is one of a common or general interest of many persons, or when the parties are very numerous, and it may be impracticable to bring them all before the court, one or more may sue or defend for the benefit of the whole.

The following committee amendment was read, and agreed to:

Strike out "suit" and insert "action."

The Clerk read as follows:

SEC. 373. Sections 28, 30, 31, 32, 36, 37, 39, and 40 of this code shall apply to suits in equity.

The committee amendment to strike out the whole section was read, and agreed to.

The Clerk read as follows:

SEC. 374. The provisions of this code from section 41 to 121, both inclusive, shall apply to and govern the mode of proceeding in suits in equity, except as otherwise or specially provided in this code.

The committee amendment to strike out the whole section was read, and agreed to.

The Clerk read as follows:

SEC. 375. When there is more than one defendant in the suit, service of the summons may be made by serving only one copy of the complaint, the same to be served on the defendant designated by the plaintiff or his attorney by a direction indorsed on such summons, but when not accompanied by a copy of the complaint the summons shall state briefly the cause of action and the relief demanded.

The following committee amendments were read:

In line 2 strike out "suit" and insert "action."
In lines 2 and 3 strike out "of the summons may be made by serving only one copy of the complaint" and insert "of only one copy of the complaint shall be required."
In lines 6 and 7 strike out "but when not accompanied by a copy of the complaint the summons shall state briefly the cause of action and the relief demanded" and insert "but upon the summons served on the other defendants shall be indorsed a brief statement of the cause of action and relief demanded."

Mr. JONES of Washington. I wish to inquire of the chairman of the committee what is the reason for not requiring the service of a copy of the complaint on each of the defendants.

Mr. WARNER. The controlling thought in framing the section as reported was that the course suggested by the gentleman from Washington would involve unnecessary trouble and expense. The general rule is simply to serve a summons without a copy of the complaint; but in this code it has been provided that a copy of the complaint shall be served on the defendant when there is only one defendant, and if more than one, there shall be a copy served upon one defendant, and upon the other or others a summons specifying the cause of action.

Mr. JONES of Washington. It seems to me that the attorney could with very little trouble make a sufficient number of copies to serve one on each of the defendants at the time the summons is served.

Mr. WARNER. There would be considerable trouble involved in that; and besides, the serving of a copy of the complaint is going a little beyond the ordinary practice.

Mr. LACEY. Perhaps a better course than the one suggested by the gentleman from Washington would be, where there is more than one defendant, to leave a copy with the clerk.

Mr. WARNER. The original is left with the clerk.

Mr. LACEY. I mean leave a copy with the clerk for the other defendants. Instead of selecting one particular defendant, let the copy be filed with the clerk for all.

Mr. JONES of Washington. It would seem that if a copy is served on one defendant all the defendants are equally entitled to a copy.

Mr. GAINES. They may be entitled to a copy as a matter of right, but they can go to the clerk's office and procure one.

Mr. WARNER. The attorney can do that. Where there is a joint action against a number of defendants, a single attorney would no doubt represent all; that attorney would have a copy of the complaint furnished.

Mr. JONES of Washington. I withdraw the amendment.

The question being taken on the amendments of the committee, they were agreed to.

Mr. WARNER. I ask unanimous consent that the committee return to section 350 for the purpose of adopting the amendment which I sent to the desk.

The amendment was read, and agreed to, as follows:

Strike out "next of kin," in line 5 of amendment, and insert the following: "children, when he or she leaves a husband, wife, or children him or her surviving;" and after the word "administration," in line 9 of amendment, insert "and when he or she leaves no husband, wife, or children him or her surviving, the amount recovered shall be administered as other personal property of the deceased person."

The Clerk read as follows:

SEC. 362. In addition to the causes enumerated in the subdivisions of section 46, service of the summons may be made by publication in the following cases:

First. When the subject of the suit is real or personal property in the district, and the defendant has or claims a lien or interest actual or contingent therein, or the relief demanded consists wholly or partly in excluding the defendant from any lien or interest therein;

Second. When the suit is for divorce, as hereinafter provided.

The following committee amendments were read, and agreed to:

In line 2 strike out "forty-six" and insert "forty-seven."
In lines 4 and 9 strike out "suit" and insert "action."

Mr. GAINES. I observe that section 362 speaks of service of summons being made by publication. I presume that means publication in some newspaper. But suppose there is no paper published in the particular locality?

Mr. WARNER. Then publication can not be made in that way. The bill provides in that case service by posting.

Mr. GAINES. Then you might say "by publication or post."

Mr. WARNER. Where there is a newspaper, publication may be made in that way; but if there is no newspaper published in the locality, the notice may be posted in some conspicuous public place.

The following committee amendments to renumbered section 364 were read, and agreed to:

In line 2 strike out the words "a suit" and insert in lieu thereof the words "an action."
Line 3, strike out "suit" and insert "action."
Line 6, strike out "suit" and insert "action."
Strike out the remainder of lines 6 and 7.

The following committee amendments to renumbered section 365 were read, and agreed to:

Line 1, strike out "a suit" and insert "an action of an equitable nature."
Line 2, strike out "suit" and insert "action."
Line 5, strike out "suit" and insert "action."
Line 14, strike out "suit" and insert "action."
Line 15, strike out "suit" and insert "action."

Section 366 as renumbered, as proposed to be amended by the committee, was read, as follows:

SEC. 366. The writ of ne exeat is abolished, and instead thereof the plaintiff in an action may have the defendant arrested and held to bail in like manner and with like effect as provided in the chapter of this title "Of arrest and bail." A cause of arrest in an action shall be the same as those specified in section 98, so far as the same may exist, and not otherwise.

Mr. LLOYD. Mr. Chairman, I ask that that section be passed, to be considered in connection with the other sections which were passed last night.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent that section 366 be passed without prejudice. Is there objection?

There was no objection.

Mr. JONES of Washington. Mr. Chairman, I ask unanimous consent to recur to page 120, section 226. That is the section relative to motions for new trial. Last evening I asked if there was any provision allowing the judge, in his discretion, to extend the time for filing affidavits. I find that there is no such provision.

The CHAIRMAN. The gentleman from Washington asks unanimous consent to return to section 226, page 120, for the purpose of offering an amendment. Is there objection?

There was no objection.

The amendment offered by Mr. JONES of Washington was read, as follows:

After the word "decide," in line 4, page 120, insert "but the court may, upon satisfactory showing, extend the time for filing such affidavits."

Mr. WARNER. That is satisfactory.

The amendment was agreed to.

The following committee amendments to section 367 as renumbered were read, and agreed to:

In line 2 strike out "suits" and insert "actions of an equitable nature."
In line 10 strike out "suit" and insert "action."

Section 368 as renumbered, as proposed by the committee to be amended, was read, as follows:

"SEC. 368. All issues of fact in actions of an equitable nature may be tried by the court, and if tried by the court, the evidence shall be presented and the trial conducted in the same manner as other actions: *Provided*, The court may, in its discretion, refer the case to a referee pursuant to the provisions of this title. In all such actions the court, in rendering its decisions therein, shall set out in writing its findings of fact upon all the material issues of fact presented by the pleadings, together with its conclusions of law thereon; but such findings of fact and conclusions of law shall be separate from the judgment, and shall be filed with the clerk, and shall be incorporated in, and constitute a part of, the judgment roll of the case; and such findings of fact shall have the same force and effect, and be equally conclusive, as the verdict of a jury in an action. Exceptions may be taken during the trial to the ruling of the court, and also to its findings of fact, and a statement of such exceptions prepared and settled as in an action, and the same shall be filed with the clerk within ten days from the entering of the decree, or such further time as the court may allow."

Mr. GAINES. I should like to ask the gentleman from Illinois [Mr. WARNER] what provision is made in this code for giving the litigants in equitable cases the right to demand a trial by jury?

Mr. WARNER. There is no trial by jury in cases of an equitable nature. The provision is the same as it is, I suppose, in the gentleman's State, and the same as it is in my State.

Mr. GAINES. In my State they have the right, before the first day of term, to file a demand for trial by jury and have a trial by jury.

Mr. WARNER. It is not so in my State, and in the majority of States it is left to the court. He can refer a question of fact to the jury, but there is nothing here providing that parties can demand a jury trial in a suit of an equitable nature.

Mr. GAINES. I see in section 367 it is left entirely with the court, for it says:

Whenever it becomes necessary or proper to inquire of any fact by the verdict of a jury, the court may direct a statement thereof, and that a jury be formed to inquire of the same.

Mr. WARNER. Yes.

The committee amendments to section 368 as renumbered were agreed to.

The following committee amendments to section 369 as renumbered were read, and agreed to:

In line 1 strike out "suit" and insert "action."
In line 3 strike out "eighty-seven" and insert "eighty-six."

The following committee amendment to section 370 was read, and agreed to:

In line 9 strike out "suit" and insert "action."

The following committee amendment to section 371 as renumbered was read, and agreed to:

In line 6 strike out "eighty-two" and insert "sixty-eight of this title."

The following committee amendments to section 372 as renumbered were read, and agreed to:

In line 2 strike out "code" and insert "title."
Strike out "suits" and insert "actions of an equitable nature."
Line 4, strike out "decree" and insert "judgment."

The following committee amendments to section 373 as renumbered were read, and agreed to:

Line 1, strike out "decree" and insert "judgment."
Strike out "a suit" and insert "an action."
Line 5, strike out "decree" and insert "judgment."
Line 6, strike out "suit" and insert "action."
Line 7, strike out "suit" and insert "action."

The following committee amendments to section 374 as renumbered were read, and agreed to:

In line 3 strike out "decree" and insert "judgment."
Line 4, strike out "suit" and insert "action:" strike out "decree" and insert "judgment."
Line 5, strike out "suit" and insert "action."
Line 8, strike out "decree" and insert "judgment."
Line 9, strike out "suit" and insert "action."

The following committee amendments to section 375 as renumbered were read, and agreed to:

Line 2, strike out "code" and insert "title."
Line 4, strike out "suits" and insert "actions of an equitable nature."
Line 7, strike out "a suit" and insert "such an action."

Section 376 as renumbered and as proposed to be amended by the committee was read, and agreed to, as follows:

SEC. 376. When upon the submission of such an action the court is unadvised as to what judgment ought to be given therein, it may reserve the case for further consideration, and may decide the same and give such judgment in vacation by filing the same with the clerk. When a judgment is given in an action of an equitable nature, unless otherwise ordered by the court, it shall be entered by the clerk within the day it is given. Sections 250, 251, 253, 254, and 258 of this title shall apply to actions of an equitable nature. The provisions of chapter 30 of this title shall apply to judgments and the final record or roll thereof.

Section 377 as renumbered and as proposed to be amended was read, and agreed to, as follows:

SEC. 377. A judgment requiring a party to make a conveyance, transfer, release, acquittance, or other like act within a period therein specified shall, if such party do not comply therewith, be deemed and taken to be equivalent thereto. The court or judge thereof may enforce an order or judgment in an action of an equitable nature, other than for the payment of money, by punishing the party refusing or neglecting to comply therewith, as for a contempt.

The following committee amendments to section 378 as renumbered were read, and agreed to:

Line 2, strike out "code" and insert "title."
Strike out "decrees" and insert "judgments."
Line 3, strike out "decree" and insert "judgment."
Line 6, strike out "a suit" and insert "an action."

The following committee amendments to section 379 as renumbered were read, and agreed to:

Line 2, strike out "a suit" and insert "an action."
Line 3, strike out "decree" and insert "judgment."
Line 4, strike out "decree" and insert "judgment."
Line 7, strike out "ninety-one" and insert "seventy-seven."

The following committee amendments to section 380 as renumbered were read, and agreed to:

Line 3, strike out "suit" and insert "action."
Strike out "decree" and insert "judgment."

The following committee amendments to section 382 as renumbered were read, and agreed to:

Line 2, strike out "defendant" and insert "plaintiff."
Line 9, strike out "suit" and insert "action."
Line 10, strike out "decree" and insert "judgment."

The following committee amendments to section 385 as renumbered were read, and agreed to:

Line 4, strike out "a suit" and insert "an action of an equitable nature."
Line 5, strike out "suit" and insert "action."
Line 6, strike out "decree" and insert "judgment."
Line 10, strike out "decree" and insert "adjudge."
Line 11, strike out "decree" and insert "judgment."

The following committee amendments to section 386 as renumbered were read, and agreed to:

Line 6, strike out "suit" and insert "action;" and after the words "defendant in the" strike out "suit" and insert "action."

The following committee amendments to section 387 as renumbered were read, and agreed to:

Line 3, strike out "decree" and insert "judgment."
Line 4, strike out "suit" and insert "action."
Line 5, strike out "decree" and insert "judgment."
Line 7, strike out "decree" and insert "judgment."

The following committee amendments to section 388 as renumbered were read, and agreed to:

Line 1, strike out "decree" and insert "judgment."
Line 2, strike out "decree" and insert "judgment."
Line 5, strike out "decree" and insert "judgment."
Line 7, strike out "decree" and insert "judgment."
Line 13, strike out "decree" and insert "judgment."
Line 16, strike out "decree" and insert "judgment."
Line 17, strike out "decree" and insert "judgment."
Line 19, strike out "decree" and insert "judgment."
Line 20, strike out "decree" and insert "judgment."

The following committee amendments to section 389 as renumbered were read, and agreed to:

Line 1, strike out "decree" and insert "judgment."
Line 3, strike out "decree" and insert "judgment."

The following committee amendment was read, and agreed to:

Page 207, strike out all of lines 1 to 6, inclusive, being section 404 old number.

The following committee amendments to section 390 as renumbered were read, and agreed to:

Line 1, strike out "at law."
Line 3, strike out "ninety-nine" and insert "eighty-five;" strike out "a suit" and insert "an action."

The following committee amendments to section 391 as renumbered were read, and agreed to:

Line 1, strike out "a suit" and insert "an action."
Line 4, strike out "decree" and insert "adjudge."
Line 5, strike out "decree" and insert "adjudge."
Line 8, strike out "suit" and insert "action."
Line 9, strike out "decree" and insert "judgment."

The following committee amendments to section 392 as renumbered were read, and agreed to:

Line 1, strike out "decree" and insert "judgment."
Line 2, strike out "suit" and insert "action."
Line 3, strike out "suit" and insert "action."
Line 4, strike out "decree" and insert "judgment."
Line 5, strike out "decree" and insert "judgment."
Line 9, strike out "decree" and insert "judgment."

The amendments to section 393 were read, as follows:

In line 6 strike out the words "a suit" and insert in lieu thereof the words "an action of an equitable nature."
In line 11 strike out the word "owner" and insert the word "owners."

The amendments were agreed to.

The amendments to section 395 were read, as follows:

In line 1 strike out the words "may, at his option" and insert the word "shall."
In line 2 strike out the words "a lien" and insert liens."
In line 3 strike out the words "other than by judgment or decree."
In line 4 strike out the word "suit" and insert the word "action."

The amendments were agreed to.

The amendment to section 396 was read, as follows:

In line 3 strike out the word "suit" and insert the word "action."

The amendment was agreed to.

The amendment to section 397 was read, as follows:

In line 9 strike out the word "suit" and insert the word "action."

The amendment was agreed to.

The amendments to section 399 were read, as follows:

In line 3 strike out the word "suit" and insert the word "action."
In line 6 strike out the word "decree" and insert the word "judgment."

The amendments were agreed to.

The amendment to section 400 was read, as follows:

In line 8 strike out the word "decree" and insert the word "adjudge."

The amendment was agreed to.

The amendments to section 402 were read, as follows:

In line 3 strike out the word "decree" and insert the word "judgment."
In line 5 strike out the word "decree" and insert the word "judgment."
In paragraph 2, line 18, strike out the word "four" and insert the word "three;" in same line strike out the word "twelve" and insert the words "ninety-seven."

The amendments were agreed to.

The amendments to section 403 were read, as follows:

In line 1 strike out the word "decree" and insert the word "judgment."
In line 4 strike out the word "decree" and insert the word "judgment."

The amendments were agreed to.

The amendment to section 405 was read, as follows:

In line 2 strike out the word "decreed" and insert the word "adjudged."

The amendment was agreed to.

The next amendment was to strike out all of section 422 (old number).

The amendment was agreed to.

The amendment to section 407 was read, as follows:

In line 4 strike out the words "or decree."

The amendment was agreed to.

The amendments to section 409 were read, as follows:

In line 3 strike out the words "or decree."
In lines 6 and 7 strike out the words "or decree."

The amendments were agreed to.

The amendment to section 411 was read, as follows:

In line 2 strike out the word "suit" and insert the word "action."

The amendment was agreed to.

The amendments to section 412 were read, as follows:

In line 3 strike out the word "suit" and insert the word "action."
In line 5 strike out the word "twenty-five" and insert the word "nine."

The amendments were agreed to.

The amendments to section 413 were read, as follows:

In line 2 strike out the word "decree" and insert the word "judgment."
In line 5 strike out the word "suit" and insert the word "action."
In line 9 strike out the word "decree" and insert the word "judgment."

The amendments were agreed to.

The amendment to section 414 was read, as follows:

In line 1 strike out the word "suit" and insert the word "action."

The amendment was agreed to.

The amendments to section 417 were read, as follows:

In line 2 strike out the word "suit" and insert the word "action."
In line 3 strike out the word "suit" and insert the word "action."
In line 10 strike out the word "suit" and insert the word "action."

The amendments were agreed to.

The amendment to section 418 was read, as follows:

In line 4, after the word "the" and before the word "terms," insert the words "time, place, and."

The amendment was agreed to.

The amendment to section 421 was read, as follows:

In line 6 strike out the word "suit" and insert the word "action."

The amendment was agreed to.

The amendment to section 428 was read, as follows:

In line 5 strike out the word "suit" and insert the word "action."

The amendment was agreed to.

The amendments to section 430 were read, as follows:

In line 9 strike out the word "seventeen" and insert the word "two;" in line 14 strike out the word "forty-four" and insert the word "twenty-eight."

The amendments were agreed to.

The amendments to section 437 were read, as follows:

In line 4 strike out the word "suit" and insert the word "action;" in same line, afer the word "upon," insert the words "such guardian."

The amendments were agreed to.

The next amendment was to strike out section 455 (old number).

The amendment was agreed to.

The following amendments to section 439 as renumbered were agreed to:

In line 5 strike out the word "decree" and insert "judgment."
In line 6 strike out the word "decree" and insert "judgment."

The following committee amendments to section 440 as renumbered were agreed to:

In line 1 strike out the word "thirty-eight" and insert "thirty-seven;" also in line 2 strike out "suits" and insert "actions of an equitable nature."
In line 5 strike out "fifty-six" and insert "forty-eight."
In line 6 strike out "fifty-seven" and insert "forty-nine."
In line 6 strike out "fifty-eight" and insert "fifty."
In line 7 strike out "suit" and insert "action of an equitable nature."
In line 11 strike out "suit" and insert "action."
In line 12 strike out "suit in equity" and insert "an action of an equitable nature."
In line 14 strike out "suit" and insert "action."

The following committee amendments to section 441 as renumbered were agreed to:

In line 2 strike out "a suit in equity" and insert "an action."
In line 5 strike out "suit" and insert "action."

The following committee amendments to section 442 as renumbered were agreed to:

In line 1 strike out "suit" and insert "action."
In line 3 strike out "suit" and insert "action."

The following committee amendments to section 443 as renumbered were agreed to:

In lines 2 and 3 strike out "fifty-nine" and insert "forty-two;" and in line 3 strike out "a suit" and insert "an action."

The following committee amendments to section 444 as renumbered were agreed to:

In line 1 strike out "a suit in equity" and insert "an action."
In line 3 strike out "suit" and insert "action."
In line 5 strike out "suit" and insert "action."

The following committee amendments to section 445 as renumbered were agreed to:

In line 1 strike out "a suit" and insert "an action.
In line 4 strike out "suit" and insert "action."

The following committee amendments to section 447 as renumbered were agreed to:

In line 1 strike out "a suit" and insert "an action."
In line 5 strike out "suit" and insert "action."
In line 6 strike out "suit" and insert "action."

The following committee amendments to section 450 as renumbered were agreed to:

In lines 6 and 7 strike out "whether liquidated or otherwise."
In line 9 strike out "fifty-seven" and insert "forty."

The following committee amendments to section 452 as renumbered were agreed to:

In line 1 strike out "suit" and insert "action."
In line 5 strike out "decree" and insert "judgment."
In line 6 strike out "decree" and insert "judgment."
In line 8 strike out "suit" and insert "action."
In line 11 strike out "decree" and insert "judgment."

Mr. WARNER. Mr. Chairman, I wish to recur to section 451 as renumbered, where there is a mistake.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to recur to section 451. Is there objection? [After a pause.] The Chair hears none.

Mr. WARNER. I move to amend in section 451 as renumbered as follows:

In line 1 strike out "decree" and insert "judgment;" and in line 5 strike out "decree" and insert "judgment."

The amendments were agreed to.

The following committee amendment to section 453 as renumbered was agreed to:

In line 1 strike out "suit" and insert "action."

The following committee amendment to section 457 as renumbered was agreed to:

In line 1 strike out "a suit" and insert "an action of an equitable nature."

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 459. When either of the parties to a marriage shall be incapable of making such contract or assenting thereto for want of legal age or sufficient understanding, or when the consent of either party shall be obtained by force or fraud, such marriage shall be void from the time it is so declared by the decree of a court having jurisdiction thereof.

Mr. GAINES. Mr. Chairman, I would like to ask the gentleman in charge of the bill a question. I notice that the term "legal age" is used. Does this bill establish a limitation on the ages for marriage?

Mr. WARNER. Yes.

Mr. GAINES. At what age?

Mr. WARNER. I think it puts it a little too high, 21 I think. The gentleman will see on page 459, under the title of marriage, that the age of the male is 21 and females 18.

Mr. GAINES. That is a little too high. [Laughter.]

The following committee amendments to section 460 as renumbered were agreed to:

In line 2 strike out "suit" and insert "action."
In line 3 strike out "seventy-five" and insert "fifty-eight."
In line 5 strike out "suit."
In line 7 strike out "decree" and insert "judgment."
In line 8 strike out "a suit" and insert "an action."

The following committee amendments to section 461 as renumbered were agreed to:

In line 3, page 233, strike out "seventy-six" and insert "fifty-nine."
In the same line strike out "suit" and insert "action."
In line 5 strike out "suit" and insert "action."

The following committee amendments to section 462 as renumbered were agreed to:

In line 3 strike out "seventy-five" and insert "fifty-four."
In line 4 strike out "seventy-six" and insert "fifty-nine."
In line 5 strike out "suit" and insert "action."
In line 6 strike out "suit" and insert "action."
In line 8 strike out "decree" and insert "judgment."

The following committee amendments to section 463 as renumbered were agreed to:

In line 2 strike out "suit or the claim" and insert "action."
It line 5 strike out "suit" and insert "action."

Mr. WARNER. Mr. Chairman, on page 234, subdivision 6 of section 463, line 14, in the committee amendment I move to strike out "suit" and insert "action."

The amendment to the amendment was agreed to.

The committee amendment was agreed to.

The following committee amendments to section 464 as renumbered were agreed to:

In line 2 strike out "a suit" and insert "an action."
In line 4 strike out "suit" and insert "action."
In line 5 strike out "suit" and insert "action."
In line 7 strike out "three years" and insert "one year."
In line 7 strike out "suit" and insert "action."

Section 464 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 464. When a marriage has been solemnized in the district an action may be maintained to declare it void if the plaintiff is an inhabitant of the district at the commencement of the action. If the marriage has not been solemnized in the district, such action can only be maintained when the plaintiff has been an inhabitant thereof for one year prior to the commencement of the action.

Section 465 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 465. In an action for the dissolution of the marriage contract the plaintiff therein must be an inhabitant of the district at the commencement of the action and for three years prior thereto, which residence shall be sufficient to give the court jurisdiction without regard to the place where the marriage was solemnized or the cause of action arose.

Section 466 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 466. In an action for the dissolution of the marriage contract on account of adultery the defendant may admit the adultery and show in bar of the action either—

First. That the act was committed by the procurement or with the connivance of the plaintiff; or,

Second. That the act had been expressly forgiven, or impliedly so, by the voluntary cohabitation of the parties after knowledge thereof; or,

Third. That the plaintiff has been guilty of adultery also without the procurement or connivance of the defendant and not forgiven as provided in subdivision second of this section; or,

Fourth. That the action has not been commenced within one year after the discovery of the act by the plaintiff.

When the action is for any of the causes specified in subdivisions third, fourth, fifth, or sixth of section 463, the defendant may admit the charge and show in bar of the action that the act was committed by the procurement of the plaintiff, or that it has been expressly forgiven; and in case the action is founded on subdivision third of the section 463, the defendant may also show in bar thereof that the action was not prosecuted within one year after the same occurred to the plaintiff.

Section 484 was read, as follows:

SEC. 484. Whenever a marriage shall be declared void or dissolved the party at whose prayer such decree shall be made shall in all cases be entitled to the undivided one-third part in his or her individual right in fee of the whole of the real estate owned by the other at the time of such decree, in addition

to the further decree for maintenance provided for in section 486, and it shall be the duty of the court in all such cases to enter a decree in accordance with this provision.

An amendment of the committee proposing to strike out the section was read, and agreed to.

Section 467 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 467. After the commencement of an action, and before a judgment therein, the court or judge thereof may, in its discretion, provide by order as follows:

First. That the husband pay, or secure to be paid, to the clerk of the court such an amount of money as may be necessary to enable the wife to prosecute or defend the action, as the case may be;

Second. For the care, custody, and maintenance of the minor children of the marriage during the pendency of the action;

Third. For the freedom of the wife from the control of the husband during the pendency of the action.

Section 468 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 468. Whenever a marriage shall be declared void or dissolved the court shall have power to further decree as follows:

First. For the future care and custody of the minor children of the marriage as it may deem just and proper, having due regard to the age and sex of such children, and unless otherwise manifestly improper giving the preference to the party not in fault;

Second. For the recovery of the party in fault, and not allowed the care and custody of such children, such an amount of money, in gross or installments, as may be just and proper for such party to contribute toward the nurture and education thereof;

Third. For the recovery of the party in fault such an amount of money, in gross or in installments, as may be just and proper for such party to contribute to the maintenance of the other;

Fourth. For the delivery to the wife, when she is not the party in fault, of her personal property in the possession or control of the husband at the time of giving the judgment;

Fifth. For the appointment of one or more trustees to collect, receive, expend, manage, or invest, in such manner as the court shall direct, any sum of money adjudged for the maintenance of the wife or the nurture and education of minor children committed to her care and custody;

Sixth. To change the name of the wife when she is not the party in fault.

Section 469 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 469. At any time after a judgment is given the court or judge thereof, upon the motion of either party, on notice shall have power to set aside, alter, or modify so much of the judgment as may provide for alimony or for the appointment of trustees for the care and custody of the minor children, or the nurture and education thereof, or the maintenance of either party to the action.

Section 470 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 470. A judgment declaring a marriage void or dissolved by the action or claim of either party shall have the effect to terminate such marriage as to both parties, except that neither party shall be capable of contracting marriage with a third person, and if he or she does so contract, shall be liable therefor as if such judgment had not been given, until the action has been heard and determined on appeal, and if no appeal be taken, the expiration of the period allowed by law to take such appeal.

Section 471 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 471. Any person in possession, by himself or his tenant, of real property, may maintain an action of an equitable nature against another who claims an estate or interest therein adverse to him, for the purpose of determining such claim, estate, or interest.

Section 474 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 474. The mode of proceeding under this act shall be analogous to that of other actions of an equitable nature: *Provided*, At the time of entering the judgment fixing the true location of the disputed boundary or dividing line the court shall appoint three disinterested commissioners, one of whom shall be a practical surveyor, and shall direct the commissioners to go upon the lands of the parties and establish and mark out upon the grounds, by proper marks and monuments, the boundary or dividing line as ascertained and determined by the court in its judgment.

Section 476 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 476. The report of the commissioners may be confirmed by the court, upon written motion of either party to such suit, whenever it shall appear to the court that the motion was served upon the adverse party two days before the presentation thereof, and that no exceptions have been filed to the report within two days after the service. If exceptions are filed as aforesaid to the report, the exceptions may be heard with the motion to confirm, and the motion may confirm, modify, or set aside the report, as shall seem just, and in the latter case may appoint a new commission or refer the matter to the same commissioners with appropriate instructions.

Section 495 was read, as follows:

SEC. 495. This chapter and the five chapters next succeeding shall apply to the proceeding in both actions and suits, except as herein otherwise or specially provided.

A committee amendment to strike out the whole section was read, and agreed to.

Section 478 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 478. Successive actions may be maintained upon the same contract or transaction whenever, after the former action, a new cause of action arises therefrom.

Section 479 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 479. Whenever two or more actions are pending at one time between the same parties and in the same court upon causes which might have been joined, the court may, upon the motion of the defendant, order the same to be consolidated. An action is deemed to be pending from the commencement thereof until its final determination upon appeal, or until the expiration of the period allowed to take an appeal.

Section 480 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 480. No natural person is subject to the jurisdiction of the district court of the district unless he appear in the court, or be found within the district, or be a resident thereof, or have property therein; and in the last case only to the extent of such property at the time the jurisdiction attached. But this section is not to be construed to limit the power of the said court to declare a marriage void or a dissolution thereof when the defendant is a nonresident of the district, in the cases provided for in chapter 45.

Section 482 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 482. When the court has jurisdiction of the parties it may exercise it in respect to any cause of action wherever arising, except for the specific recovery of real property situated without the district, or for injury thereto.

Section 484 as renumbered was read with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 484. The time within which an act is to be done, as provided in this code, shall be computed by excluding the first day and including the last, unless the last day fall upon a Sunday, Christmas, or other legal holiday, in which case the last day shall also be excluded. The time for the publication of legal notices shall be computed so as to exclude the first day of publication and to include the day on which the act or event of which notice is given is to happen or which completes the full period required for publication.

Section 485 as renumbered was read with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 485. The defendant may, at any time before trial, serve upon the plaintiff and offer to allow judgment to be given against him for the sum, or the property, or to the effect therein specified. If the plaintiff accept the offer, he shall, by himself or attorney, indorse such acceptance thereon, and file the same with the clerk before trial, and within three days from the time it was served upon him; and thereupon judgment shall be given accordingly, as in case of a confession. If the offer be not accepted and filed within the time prescribed, it shall be deemed withdrawn, and shall not be given in evidence on the trial; and if the plaintiff fail to obtain a more favorable judgment, he shall not recover costs accruing after the service of the notice of the offer, but the defendant shall recover of him costs and disbursements from the time of such service.

Section 486 as renumbered was read with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 486. The court, or judge thereof, while an action is pending, may order either party to give the other, within a specified time, an inspection and copy, or permission to take a copy, of any book, document, or paper in his possession, or under his control, containing evidence or matters relating to the merits of the action, or the defense therein. If obedience to the order be neglected or refused, the court may exclude the book, document, or paper from being given in evidence, or, if wanted as evidence by the party applying therefor, may permit proof of the contents thereof; and the court may also punish the party so neglecting or refusing as for a contempt. This section is not to be construed to prevent a party from compelling another to produce books, documents, or papers when he is examined as a witness.

Section 487 as renumbered was read with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 487. Every direction of a court or judge made or entered in writing, and not included in a judgment, is denominated an order. An application for an order is a motion.

Section 488 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 488. Motions shall be made to the court or judge, as provided in other parts of this code. They shall be made at the place where the action is triable, except when made to a judge of the court before whom the action is pending and without notice, in which case an order may be made by such judge in any part of the district.

Section 490 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 490. If an application for an order, made to a judge of the court in which the action or proceeding is pending, be refused in whole or in part, or be granted conditionally, no subsequent application for the same order shall be made to any other judge. A violation of this section is punishable as a contempt, and an order made contrary thereto may be revoked by the judge who made it, or vacated by the court, or judge thereof, in which the action or proceeding is pending.

Section 495 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 495. A defendant appears in an action when he answers, demurs, or gives the plaintiff written notice of his appearance, and until he does so

appear he shall not be heard in such action, or in any proceeding pertaining thereto, except the giving of the undertakings allowed to the defendant in the provisional remedies of arrest, attachment, and the delivery of personal property. When the defendant has not appeared, notice of a motion or other proceeding need not be served upon him, unless he be imprisoned for want of bail, or unless directed by the court, or judge thereof, in pursuance of this title.

Section 496 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 496. When a party is absent from the district and has no attorney in the action, service may be made by mail if his residence be known; if not known, on the clerk for him. When a party, whether absent or not from the district, has an attorney in the action, service of notice or other papers shall be made upon the attorney.

Section 498 as renumbered was read, with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 498. A notice or other paper is valid and effectual, although defective either in respect to the title of the action in which it is made, or the name of the court or the parties, if it intelligently refer to such action.

Section 500 as renumbered was read with the amendments of of the committee; which were agreed to, making the section read as follows:

SEC. 500. Appeals and writs of error may be taken and prosecuted from the final judgments of the district court for the district of Alaska or any division thereof direct to the Supreme Court of the United States in the following cases, namely: In prize causes and in all cases which involve the construction or application of the Constitution of the United States, or in which the constitutionality of any law of the United States, or the validity or construction of any treaty made under its authority is drawn in question, or in which the constitution or law of a State is claimed to be in contravention of the Constitution of the United States; and that in all other cases where the amount involved or the value of the subject-matter exceeds $500 the United States circuit court of appeals for the Ninth circuit shall have jurisdiction to review by writ of error or appeal the final judgments, orders of the district court.

Section 501 as renumbered was read with the amendments of the committee; which were agreed to, making the section read as follows:

SEC. 501. a The judgments of the circuit court of appeals shall be final in all cases coming to it from the district court, but whenever the judges of the circuit court of appeals may desire the instruction of the Supreme Court of the United States upon any question or proposition of law which shall have arisen in any case pending before the circuit court of appeals on writ of error to or appeal from the district court, judges may certify such question or proposition to the Supreme Court, and thereupon the Supreme Court shall give its instruction upon the questions and propositions certified to it, and its instruction shall be binding upon the circuit court of appeals.

The following committee amendment to section 508 as renumbered was read, and agreed to:

In line 3 strike out the words "twenty-one" and insert in lieu thereof the word "seven."

The following committee amendments to section 510 as renumbered were read, and agreed to:

In line 1 strike out the words "a suit" and insert in lieu thereof the words "an action of equitable nature."
In line 3 strike out the word "decree" and insert the word "judgment."
In line 4 strike out the words "an action" and insert "in other actions."
In line 5 strike out the word "suit" and insert the word "action."

The following committee amendments to section 511 as renumbered were read, and agreed to:

In line 3 strike out the word "suit."
In line 6 strike out the word "suit."
In line 11 strike out the words "or decree."
In line 13 strike out the words "or decree."
In lines 18 and 19 strike out the words "or decree."

The following committee amendment to section 512 as renumbered was read, and agreed to:

In line 4 strike out the words "or decree."

The following committee amendment to section 516 as renumbered was read, and agreed to:

In line 6 strike out the word "suit."

The following committee amendments to section 517 as renumbered were read, and agreed to:

In line 1 strike out the words "or suit."
In line 5 strike out the words "or suit."

The following committee amendments to section 518 as renumbered were read, and agreed to:

In line 3 strike out the words "or suit."
In line 4 strike out the words "or suit."

The following committee amendments to section 519 as renumbered were read, and agreed to:

In line 1 strike out the words "or suit."
In line 9 strike out the words "or suit."

The following committee amendment to section 521 as renumbered was read, and agreed to:

In line 1 strike out the words "or suits."

The following committee amendments to section 522 as renumbered were read, and agreed to:

In line 8 strike out the words "or suit."
In line 9 strike out the words "or decree."

The following committee amendments to section 524 as renumbered were read, and agreed to:

In line 4 strike out the words "or suit;" strike out after "action" the word "suit."
In line 6 strike out "code" and insert "title."

The following committee amendments to section 526 as renumbered were read, and agreed to:

In line 2 strike out "suit."
In line 8 strike out "suit."

The following committee amendment to section 528 as renumbered was read, and agreed to:

In line 2 strike out "and decrees."

The following committee amendment to section 533 as renumbered was read, and agreed to:

In line 3 strike out "suit."

Section 535 as renumbered was read as proposed to be amended, and the amendments agreed to, as follows:

SEC. 535. Whenever requested the clerk, upon being tendered legal fees therefor, shall furnish to any person a certified copy of any portion of such records or files. Whenever requested the clerk shall search such records and files and give a certificate thereof according to the nature of the inquiry.

The following committee amendment to section 538 as renumbered was read, and agreed to:

In line 2 strike out "code" and insert "title."

The following committee amendment to section 539 as renumbered was read, and agreed to:

In line 4 strike out the words "and not otherwise."

The following committee amendment was read, and agreed to:

Page 264, strike out all of old section 567 and insert a new section, to be numbered 542, to read as follows:

"SEC. 542. Before allowing the writ, the court or judge shall require the party applying therefor to give an undertaking, with one or more sureties, subject to its or his approval, in the amount to be fixed by it or him, conditioned that he will perform the judgment or decision sought to be reviewed in case the district court shall so order, and judgment may be given by said court against the applicant and his surety or sureties in case the judgment or decision sought to be reviewed shall be affirmed for the amount thereof, the costs of said proceeding."

The following committee amendment to section 543 as renumbered was read, and approved:

In line 5 strike out "and not elsewhere."

The following committee amendment was read, and agreed to:

Page 265, strike out all of old section 559.

Section 544 as renumbered and as proposed to be amended was read, and the amendments agreed to, as follows:

SEC. 544. Upon the filing of the order allowing the writ, and the petition and undertaking of the plaintiff, the clerk shall issue the writ, according to the direction of the order. The writ shall be served by delivering a copy of the original to the opposite party in the action or proceeding sought to be reviewed, at least ten days before the return of the original writ, and may be served by an officer or person authorized to serve a summons, who shall indorse on the original writ the manner of service thereof.

The following committee amendments to section 547 as renumbered were read, and agreed to:

In line 2 strike out the word "code" and insert "title."
In line 2, after the word "chapter," strike out the words "and not otherwise."

The following committee amendment to section 555 as renumbered was read, and agreed to:

In line 3 strike out the words "and none other are allowed."

The following committee amendment to section 557 as renumbered was read, and agreed to:

In line 3 strike out the words "or suit."

The following committee amendment to section 561 as renumbered was read, and agreed to:

Strike out all of lines 1 and 2 and, in line 3, the words "habeas corpus is abolished."

The following committee amendment to section 562 as renumbered was read, and agreed to:

In line 2 strike out the words "or decree."

The following committee amendments to section 564 as renumbered were read, and agreed to:

In line 8 strike out "decree."
In line 9 strike out the words "seventy-eight" and insert "sixty-two."

The amendment to section 576 was read, as follows:

In line 22 strike out the words "or decree."

The amendment was agreed to.

The amendments to section 577 were read, as follows:

In line 4 strike out the words "seventy-eight" and insert "sixty-two;" in line 7 strike out the word "code" and insert the word "title."

The amendments were agreed to.

The amendment to section 586 was read, as follows:

In line 2 strike out the word "returning" and insert the word "requiring."

The amendment was agreed to.

The amendments to section 588 were read, as follows:

In lines 16, 19, 20, 22, and 23 strike out the words "or suit."

The amendments were agreed to.

The amendment to section 589 was read, as follows:

In line 5, after the word "a," insert the words "writ of."

The amendment was agreed to.

The amendment to section 594 was read, as follows:

In line 2 strike out the word "suit."

The amendment was agreed to.

The amendment to section 595 was read, as follows:

In line 22 strike out the words "eighty-four" and insert the words "sixty-eight."

The amendment was agreed to.

The amendments to section 596 were read, as follows:

In line 2, after the word "delivery," insert "of a certified copy;" and in line 4 strike out the word "it" and insert the words "such copy."

The amendments were agreed to.

The amendments to section 604 were read, as follows:

In line 16 strike out the word "suit;" in line 18 strike out the word "decree;" in line 27 strike out the word "suit;" in lines 34 and 36 strike out the word "suit;" in line 41 strike out the word "decree;" in lines 42 and 43 strike out the word "suit;" in line 49 strike out the words "thirty-one" and insert the word "one."

The amendments were agreed to.

The amendments to section 605 were read, as follows:

In line 7 strike out the words "thirty-one;" in line 8 strike out the word 'suit."

The amendments were agreed to.

The amendment to section 610 was read, as follows:

In line 11 strike out the words "twenty-seven" and insert the word "eleven."

The amendment was agreed to.

The amendments to section 614 were read, as follows:

In lines 2 and 8 strike out the word "suit."

The amendments were agreed to.

The amendment to section 618 was read, as follows:

In line 5 strike out the word "suit."

The amendment was agreed to.

Mr. BARTLETT. Mr. Chairman, I understand the Clerk to be reading the amendments to this bill. I want to offer an amendment to a certain portion of it.

The Clerk read as follows:

Amend by inserting, on page 288, before line 1, the following:

"That contempts of court are divided into two classes, direct and indirect, and shall be proceeded against only as hereinafter prescribed.

"SEC. 2. That contempts committed during the sitting of the court, or of a judge at chambers, in its or his presence or so near thereto as to obstruct the administration of justice, are direct contempts. All other are indirect contempts.

"SEC. 3. That a direct contempt may be punished summarily without written accusation against the person arraigned, but if the court shall adjudge him guilty thereof a judgment shall be entered of record in which shall be specified the conduct constituting such contempt, with a statement of whatever defense or extenuation the accused offered thereto and the sentence of the court thereon.

"SEC. 4. That upon the return of an officer on process or an affidavit duly filed, showing any person guilty of indirect contempt, a writ of attachment or other lawful process may issue, and such person be arrested and brought before the court; and thereupon a written accusation, setting forth succinctly and clearly the facts alleged to constitute such contempt, shall be filed and the accused required to answer the same, by an order which shall fix the time therefor, and also the time and place for hearing the matter; and the court may, on proper showing, extend the time so as to give the accused a reasonable opportunity to purge himself of such contempt. After the answer of the accused, or if he refuse or fail to answer, the court may proceed at the time so fixed to hear and determine such accusation upon such testimony as shall be produced. If the accused answer, the trial shall proceed upon testimony produced as in criminal cases, and the accused shall be entitled to be confronted with the witnesses against him; but such trial shall be by the court, or, in its discretion, upon application of the accused, a trial by jury may be had as in any criminal case. If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment.

"SEC. 5. That the testimony taken on the trial of any accusation of indirect contempt may be preserved by bill of exceptions, and any judgment of conviction therefor may be reviewed upon direct appeal to or by writ of error from the Supreme Court, and affirmed, reversed, or modified, as justice may require. Upon allowance of an appeal or writ of error execution of the judgment shall be stayed, upon the giving of such bond as may be required by the court or a judge thereof, or by any justice of the Supreme Court."

Mr. WARNER. Mr. Chairman, I ask unanimous consent that this chapter may be passed, and that the gentleman's amendment may be printed in the RECORD, in order that we may study it to-morrow and decide upon the propriety of adopting it. Probably there are a good many good things in it, but I could not understand it from a cursory reading.

Mr. BARTLETT. I yield to that proposition. I understand the gentleman's request to be that this section, with the amendment pending, be passed over until the bill is taken up again.

Mr. WARNER. Yes; the whole chapter on contempts.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that chapter 58 be passed, and that the amendment of the gentleman from Georgia be considered as pending. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. BARTLETT. I want it understood, also, that the amendment be printed in the RECORD.

The CHAIRMAN. And that the amendment be printed in the RECORD.

The following committee amendments were agreed to:

Strike out sections 635, 636, 637, old numbers.

The following committee amendments to section 619 as renumbered were agreed to:

In line 1 insert, after the word "subpœna," "for a witness."
In line 4 strike out the words "or ticket containing its substance."

The following committee amendment to section 639, old number, was agreed to:

Strike out all of the section.

The following committee amendments to section 631 as renumbered were agreed to:

In line 5 strike out "suit."
In line 11, page 297, strike out "double" and insert "legal."

The following committee amendment to section 644, old number, was agreed to:

Strike out all of the section.

The committee amendment to section 624 as renumbered was agreed to, as follows:

In lines 3 and 4 strike out the words "the failure of the witness" and insert "tender of his fees."

The following committee amendments to section 626 as renumbered were agreed to:

In line 7 strike out the word "suit."
In line 10 strike out the word "suit."
In line 15 strike out the word "suit."
In line 18 strike out the word "suit."

The following committee amendments were adopted:

Strike out all of sections 648, 649, 650, 651, 652, old numbers.

The following committee amendment to section 628 was agreed to:

In line 3 strike out the word "suit."

The following committee amendment to section 631 as renumbered was agreed to:

In line 2 strike out the word "suit."

The following committee amendments to section 632 as renumbered were agreed to:

In line 2 strike out the words "fifty-four" and insert "twenty-eight."
In line 4 strike out the word "code" and insert "title."

The following committee amendment to section 633 as renumbered was agreed to:

In line 2 strike out the words "at law."

The following committee amendments to section 634 as renumberered were agreed to:

In line 2 strike out the words "at law."
In line 10, page 303, strike out the words "forty-one" and insert "twenty-one."

The following committee amendment to section 661, old number, was agreed to:

Strike out all of the section.

The following committee amendment to section 635 as renumbered was agreed to:

In line 5 strike out the word "or" and insert, after "territory," "or district."

The following committee amendments to section 640 as renumbered were agreed to:

In line 2 strike out the word "or" and after the word "territory" insert "or district."
In line 3 strike out the words "or District of Columbia."

The following committee amendment to section 642 as renumbered was agreed to:

In line 9, page 307, strike out "do" and insert "does."

The following committee amendments to section 646 as renumbered were agreed to:

In line 9 strike out the words "seventy-one" and insert "forty-three."
In lines 10 and 11 strike out "seventy-two" and insert "forty-four."
In line 11 strike out "seventy-three" and insert "forty-three."

Mr. GAINES. Mr. Chairman, I move to strike out the last word. I should like to ask the chairman in charge of the bill if he makes any provision in this bill for the taking of depositions in shorthand?

Mr. WARNER. No; we do not.

Mr. GAINES. We have, as perhaps the gentleman knows, a statute recently enacted in Tennessee where, by the agreement of both parties, a stenographer is sworn and takes the deposition in shorthand, transcribes it, and that is binding upon both parties. It is a great convenience to a busy lawyer.

Mr. WARNER. That can be done without any statute. It can be done by agreement.

Mr. GAINES. Yes; but it is better to make it a matter of law.

Mr. WARNER. This bill makes no provision of that kind. The deposition can be taken in shorthand, but it must be written out and read to the man and signed by him.

Mr. GAINES. Do you think that is advisable?

Mr. WARNER. Yes; if you have a deposition you want it in such shape that if the deponent has committed perjury he can be

punished for it. You can not prosecute a man for perjury in a deposition taken in shorthand and not read over to the deponent or signed by him. Perhaps it would be necessary to bring the reporter back to swear from his notes as to what the testimony was. I think it would be best to require the testimony to be written out as given.

Mr. GAINES. That may be so up there. I withdraw the amendment.

Mr. SHEPPARD addressed the Chair.

The CHAIRMAN. Does the gentleman wish to offer an amendment?

Mr. LLOYD. The gentleman from Texas [Mr. SHEPPARD] desires to address the committee for a few minutes, by unanimous consent, on a subject different from that before it.

The CHAIRMAN. Is there unanimous consent that the gentleman from Texas be permitted to address the committee for five minutes?

There was no objection.

Mr. SHEPPARD. Mr. Chairman, but a short while ago we received the sad intelligence of the death of DAVID B. CULBERSON, one of the most distinguished among the former members of Congress.

After his voluntary retirement from Congress the President, Mr. McKinley, who had served in Congress with him a number of years, recognizing his great legal learning, appointed him one of the commission to codify the criminal laws of the United States. He assisted in preparing a criminal code for Alaska, and I am informed that he had much to do in preparing the civil code for Alaska which this House has now under consideration. He was a member of this commission at the time of his death.

As the present Representative of the district from which he came to Congress for more than two decades, I desire briefly to call attention to his conspicuous labors as lawyer, as soldier, and as statesman.

DAVID B. CULBERSON was born in Troup County, Ga., September 29, 1830. He was the son of Rev. David B. Culberson, a missionary Baptist preacher of Irish ancestry, well known as a minister in Georgia, Alabama, and Texas. His mother was Lucy Wilkinson, a native of Oglethorpe County, Ga., the daughter of W. S. Wilkinson, a large planter. He was educated at Brownwood Institute, La Grange, Ga., and in the law school of William T. Chilton, then chief justice of Alabama. He was admitted to the bar in 1850, then settled at Dadeville, Ala., and practiced there until 1856, when he moved to Texas. He settled in Upshur County, where he lived until 1860, when he moved to Jefferson, Marion County, Tex., where he resided continuously until the date of his death, May 7, 1900.

He was a lawyer in the broadest sense, combining a profound appreciation of principle with a complete equipment for practice. His mind was a lance of logic that pierced the heart of every legal problem. He possessed in a rare degree that faculty of simplifying the most complicated questions. He stated his case with a marvelous clearness that enabled both court and jury to grasp and understand its essence. Indeed, it was a matter of universal remark that "CULBERSON'S statement of his case was the strongest argument in its favor."

In the larger field of constitutional law he was equally unexcelled. His opinions upon constitutional questions were of unusual weight in Congress, a body composed chiefly of lawyers. His long and splendid service on the Judiciary Committee, of which he was at one time chairman, is the most convincing evidence of his legal ability.

As a soldier he displayed a patriotism of the highest character. He was opposed to secession, and, true to the greatness of his nature, he resigned from the Texas legislature because he felt that he could not consistently represent his people when they differed from him on so vital a measure. But when the bugle call of war was sounded and secession became an accomplished fact, he sprang gallantly to the defense of his country. He assisted in the organization of the Eighteenth Texas Infantry, and afterwards became its colonel. He remained with his regiment until the hardships of camp and march had so impaired his health as to make his retirement from active service imperative.

He was a statesman of the conservative and constructive type. The quiet dignity of his life comported happily with the depth and vigor of his mind. His great soul disdained alike the arts of the charlatan and the wiles of the demagogue. His invincible popularity may be ascribed to his purity, his sincerity, and his consistency, as well as his ability, his eloquence, and his logic.

It is too frequently true that personal contact with the great leads to disenchanting results, but such was not the case with DAVID B. CULBERSON. I know of no loftier human tribute than the fact that those who knew him best admired and loved him most. He lies beneath the restful shadows of the solemn pines at Jefferson, Tex., among the people who in honoring him honored themselves. And his memory will be revered and cherished until fate shall sing the last lines in the mystic song of time.

The Clerk read as follows:

SEC. 663. The jury, subject to the control of the court in the cases specified in this code, are the judges of the effect and value of evidence addressed to them, except when it is thereby declared to be conclusive. They are, however, to be instructed by the court on all proper occasions:

First. That their power of judging the effect of evidence is not arbitrary, but to be exercised with legal discretion and in subordination to the rules of evidence;

Second. That they are not bound to find in conformity with the declarations of any number of witnesses which do not produce conviction in their minds against a less number, or against a presumption or other evidence satisfying their minds;

Third. That a witness false in one part of his testimony is to be distrusted in others;

Fourth. That the testimony of an accomplice ought to be viewed with distrust and the oral admissions of a party with caution;

Fifth. That in civil cases the affirmative of the issue shall be proved, and when the evidence is contradictory the finding shall be according to the preponderence of evidence; that in criminal cases guilt shall be established beyond reasonable doubt;

Sixth. That evidence is to be estimated not only by its own intrinsic weight, but also according to the evidence which it is in the power of one side to produce and of the other to contradict; and, therefore,

Seventh. That if the weaker and less satisfactory evidence is offered when it appears that stronger and more satisfactory was within the power of the party, the evidence offered should be viewed with distrust.

Mr. CAMPBELL. I move to amend by striking out from the fourth subdivision of this section the words "and the oral admissions of a party with caution."

Mr. WARNER. I am of opinion that this clause should stand as it is. While it may be well known as a rule of law, there is no reason why we should not have it stated in the code, so that there may be no question about it, so that it can not be ignored. The declaration in the fourth clause of this section is "That the testimony of an accomplice ought to be viewed with distrust and the oral admissions of a party with caution." There certainly can be no objection to reading that statement of the law to the jury where it is appropriate, so as to impress it upon their minds.

Mr. PAYNE. Why not strike from the bill the whole of this code of evidence, and leave the matter subject to the rules of evidence as settled in the courts?

Mr. WARNER. I think it will be best to have in this code a small primer on evidence for the benefit of bench and bar.

Mr. GIBSON. It is already the law up there.

Mr. CAMPBELL. It strikes me that this is a very bad provision. It is not the common-law doctrine, and is not founded upon good judgment. If a party has made an oral admission, or if anyone believes that he has made such an admission, the fact should be considered by the jury in the same way as any other evidence given in the trial of a case; but I submit that the provision of the bill is unfair; it does not conform to the principles of law, and is not founded in good sense or good judgment.

Mr. GIBSON. I suggest that this provision would have more appropriateness if amended so as to read, "and the testimony as to the oral admissions of a party with caution." Of course the admissions of a party are very strong evidence. What was evidently meant by the compilers of this code was that testimony as to the oral admissions of a party ought to be received with caution. One of the very first lessons I learned at the bar was that great injustice is often brought about by false testimony as to admission of parties. If a party has actually admitted a thing, that is one of the strongest sorts of proof known to the courts; but it is often a very pertinent question whether a party made the alleged admission or not. I would therefore frame this fourth subdivision of the pending section so as to read:

That the testimony of an accomplice ought to be viewed with distrust and testimony as to the oral admissions of a party with caution.

The CHAIRMAN. Will the gentleman reduce his amendment to writing?

Mr. GIBSON. My amendment is to insert between the word "the" and the word "oral," in the seventeenth line, the words "testimony as to."

The question being taken on Mr. GIBSON'S amendment, it was agreed to.

The CHAIRMAN having put the question on agreeing to the amendment as amended, declared it agreed to.

Mr. BARNEY. Mr. Chairman, a parliamentary inquiry. Does not the adoption of that last amendment strike out the whole of that clause?

The CHAIRMAN. Yes; it strikes it out as amended.

Mr. BARNEY. I think that was misunderstood by the committee.

Mr. ROBINSON of Indiana. That is what we voted on just now, to strike it out.

Mr. GIBSON. I ask a division, and to have the question restated. It was not understood.

Mr. ROBINSON of Indiana. I object to that.

The CHAIRMAN. The gentleman from Tennessee [Mr. GIBSON] asks for a division.

Mr. ROBINSON of Indiana. A point of order on that. It is too late for that.

Mr. GIBSON. I ask for a division and ask for a restatement of the question, so that we may understand what we are voting on.

The CHAIRMAN. All those in favor of agreeing to the amendment to the amendment will rise and remain standing until they are counted.

Mr. ROBINSON of Indiana. I raise a point of order to that request, that it comes too late. If it is asked by unanimous consent, I interpose an objection to that.

The CHAIRMAN. A division, as the Chair understands, is asked on the last motion to strike out.

Mr. GIBSON. Is that to strike out the whole of the fourth subdivision?

Mr. ROBINSON of Indiana. There is no amendment to strike out the whole subdivision. There was a motion to strike out certain words, and that was carried.

Mr. LLOYD. The parliamentary situation, as I understand it, is this: The gentleman from Montana [Mr. CAMPBELL] made a motion to strike out these words:

And the oral admissions of a party with caution.

The gentleman from Tennessee moves to insert just before "oral" other words. The committee adopted that amendment. Then it came to the original proposition to strike out as amended.

The CHAIRMAN. The gentleman from Missouri states the question correctly.

Mr. GIBSON. Now, on that question I ask for a division.

The CHAIRMAN. On that question the gentleman from Tennessee asks for a division.

Mr. ROBINSON of Indiana. Mr. Chairman, to that I raise the point of order that it is too late to ask for a division, as other matters have interposed.

The CHAIRMAN. The Chair holds that the gentleman from Tennessee called for a division in time.

Mr. GAINES. Mr. Chairman, a parliamentary inquiry. Several gentlemen on this side did not understand the amendment of my colleague from Tennessee. I should be very glad to have it reported or to have him state it.

Mr. GIBSON. The Clerk can report it.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk read as follows:

Strike out the following words, as amended:
"And the testimony of the oral admissions of a party with caution."

Mr. ROBINSON of Indiana. If it be in order——

The CHAIRMAN. The gentleman from Tennessee [Mr. GIBSON] has demanded a division. As many as are in favor of this motion will rise and remain standing until they are counted.

The question was taken on the adoption of the amendment; and there were—ayes 5, noes 25.

Accordingly the amendment was rejected.

Mr. PAYNE. Mr. Chairman, I do not know what the order of the House made this morning was, as I came in after the House convened, but I wish to ask whether it would be in order to strike out this whole chapter in regard to evidence? It seems to me rather an extraordinary thing to put in a code of this kind a statement of the law of evidence, and to require the judge to charge, whenever it was appropriate, according to the language of this code. The rules of evidence are as well settled as anything in the law, and ought to be left to the judge to state to the jury as to what they are and the effect of the evidence.

Mr. BARTLETT. I should like to call attention to a section which it seems to me is unnecessary to put in here, as containing simple elementary propositions.

Mr. PAYNE. Some of this is elementary and some of it is an amendment to the elementary law.

Mr. BARTLETT. Here is a provision:

Sixth. That evidence is to be estimated not only by its own intrinsic weight, but also according to the evidence which it is in the power of one side to produce and of the other to contradict; and, therefore,

Seventh. That if the weaker and less satisfactory evidence is offered when it appears that stronger and more satisfactory was within the power of the party, the evidence offered should be viewed with distrust.

That is simply putting in a statement that is in the elementary text-books. It ought not to be put in here, to instruct the judge.

Mr. ROBINSON of Indiana. This fourth subdivision, that the testimony of an accomplice should be viewed with distrust and the oral admissions of a party with caution, is stated by Greenleaf as being a matter proper to be considered by a jury; but to make it an absolute provision of law in this code is unjust.

Mr. PAYNE. That ought to be explained. If an accomplice is corroborated, that modifies the situation. The judge ought to explain to the jury what the effect of the evidence is, and not leave it on the naked assertion that it ought to be received with distrust.

Mr. ROBINSON of Indiana. That will come in as a matter of law, without having it in a code, and I think this ought to be stricken out.

Mr. PAYNE. The whole business ought to be stricken out.

Mr. ROBINSON of Indiana. I think so myself.

Mr. PAYNE. Would a motion to strike out be in order, Mr. Chairman?

Mr. ROBINSON of Indiana. I hope the gentleman will make that motion.

The CHAIRMAN. The Chair did not hear the gentleman's motion.

Mr. PAYNE. Would a motion to strike out this chapter be in order?

The CHAIRMAN. The Chair is of the opinion that it would be in order, inasmuch as it is one paragraph.

Mr. PAYNE. Then I move to strike out chapter 65.

The CHAIRMAN. The gentleman from New York moves to strike out chapter 65, which is one paragraph.

Mr. GROSVENOR. I do not want to be captious about this matter, and I do not want to insist upon anything that will not be satisfactory to the House; but I want to point out how dangerous it is to attempt to put the details of legal principles into a written code. They operate, not to extend the power of the judge, but to limit the action of both the judge and the jury. Here is a good illustration of it right in this fourth subdivision:

That the testimony of an accomplice ought to be viewed with distrust.

Now, that is not new. That is laid down in all the law books. But there is another principle laid down in all the law books that I know anything about. The court goes further than that and says to the jury—and it is not only held to be good law if he does so instruct the jury, but it is held to be error if he does not instruct the jury—"If you find that this case turns upon the testimony of an accomplice, unless he is corroborated you ought not to convict."

That is said every day in the year when a question of that kind arises.

Mr. ROBINSON of Indiana. That is usually regulated by statutory enactment in the States, that the jury can not convict unless the testimony of an accomplice is corroborated.

Mr. GROSVENOR. That relates to special cases, usually such as rape and matters of that kind.

Mr. ROBINSON of Indiana. And seduction.

Mr. GROSVENOR. But I have never seen it in a code, and the effect of putting it into this code is simply to limit the power of the judge and jury. To say that a judge should only be permitted to say to the jury what is here stated, when he ought to go further than that, looks to me like a limitation upon his authority. It seems to me that it is unnecessary to put these elementary principles of law into a code, and particularly to attempt to state them in this limited way. That is all I desire to say about it.

Mr. ROBINSON of Indiana. I think the gentleman is quite right about that.

Mr. WARNER. Mr. Chairman——

The CHAIRMAN. The Chair would like to state, in order to be consistent with the ruling of yesterday, that in the opinion of the Chair chapter 65 is but one paragraph, and that the entire paragraph has been read, and not passed from, and that therefore it is in order to move to strike out the entire paragraph.

Mr. WARNER. I will say that this paragraph, or chapter, or whatever it may be called, is found in the codes of nearly all Western States. As has been repeatedly said before, it has been the law of Alaska since 1884, being a part of the Oregon code.

Mr. CAMPBELL. Will the gentleman permit a question?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Montana.

Mr. WARNER. With pleasure.

Mr. CAMPBELL. Have you ever practiced law where that provision was in the statute or in the code?

Mr. WARNER. I never practiced under a code.

Mr. CAMPBELL. This is in the Montana statute, and it has had a very bad effect, because it is an arbitrary provision, and the court must so instruct whether he so desires or not.

Mr. WARNER. The Juneau committee are in favor of keeping it in. Referring to what the gentleman from Ohio said about the court instructing the juror he could give credence or weight to any particular witness, I am of the impression that he is in error. The court can not tell a juror that he shall believe or disbelieve any particular witness; but he can tell the jury that he can take into consideration the character of the witness, his interest, his bias, and his means of knowing.

Mr. TAWNEY. Take it into consideration; but it says he must, and he ought to be vested with discretion.

Mr. WARNER. This specifies what should be the law and enables the court to tell the jury what the gentleman from Ohio thinks it can tell him under the common law.

Mr. TAWNEY. Do you not think it better to allow the court to instruct the jury as to the weight of evidence under the elementary rules than to confine him to certain limitations, as you propose in this section, where the party is allowed to have his instructions reviewed by a higher court?

Mr. WARNER. The trouble is that in a country that is put under the law without the court giving instructions the jury is to weigh the evidence. In this the court is following the law of the land.

Mr. TAWNEY. He can state the rules of evidence.

Mr. GIBSON. There are a great many judges that need to be instructed themselves.

Mr. PAYNE rose.

Mr. GIBSON. I know in the State of New York, where the judges are all graduates of colleges, that they do not need this, but in Alaska, and some of the other western sections of the country, the judges themselves are not very well qualified.

Mr. ROBINSON of Indiana. If they take them from Tennessee. I presume they will be.

Mr. PAYNE. We have provided very liberally for judges in this bill. They will not have a very great deal to do, so that the court will be at leisure to study law, if that is necessary, before he holds a term of court there.

Mr. GIBSON. If they get some of those rough and tumble fellows from Kansas and some of the Western States, they would need instruction.

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. GAINES. Mr. Chairman, I think this third subsection——

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. GAINES. I move to strike out the last word.

Mr. Chairman, the third provision there is equally as faulty as the one now so well criticised.

Third. That a witness false in one part of his testimony is to be distrusted in others.

Now, the jury may or may not believe a witness. That is the law, and is well understood. They may discredit entirely or they may misbelieve entirely, but a man may be mistaken in one instance and supported in a dozen others, and be unimpeachable in another. The law is well settled, and experience has shown that a witness may be mistaken in one instance and his testimony may not be discarded entirely, or it may be discarded entirely. That is the general practice; but here is a case where the jury by the very statute is obliged to disregard it, whether he is corroborated by one or a dozen good witnesses.

Mr. DAYTON. I move to strike out the last two words, if necessary.

Mr. Chairman, this simply illustrates, and I am very glad indeed to see so distinguished a lawyer as the gentleman from New York, whose State inaugurated this code practice, crying out against it. Now, these rules and regulations are ingrafted in the code practice in order to do away with the common-law rule, and it is a question of whether you take the code practice or whether you take the common-law practice. If you do adopt the code practice, it seems to me you ought not to mutilate it in this way by striking out part and requiring the common-law practice for a part and then adopt the code practice as to the other part. These provisions are incorporated in the code of Oregon, of which this is a compilation. They are also in force and effect in most of the code States of the West—in California, I am informed, and other States. My distinguished friends in the State of New York started this evil.

Mr. PAYNE. Started the code.

Mr. DAYTON. Started the code practice, which is an unmitigated evil, in my humble judgment.

Mr. GROSVENOR. How many States in the Union have the common-law practice?

Mr. DAYTON. I do not know; but I am very glad to say that Illinois, Virginia, and West Virginia and some other of the Southern States still retain the common-law practice.

Mr. CAMPBELL. You mean the back-number States.

Mr. DAYTON. No; not the back-number States; but the States that adhere to the true and logical results of the common law, and which stand to-day equal with the other States. Now, it seems to me that those who favor the code practice ought not to stand here and mutilate it by striking out its provisions.

Mr. TAWNEY. We want to correct it.

Mr. WARNER. Mr. Chairman, entirely too many statesmen have appeared on the floor, and therefore I move that the committee now rise. [Laughter.]

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. JENKINS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 3419) making further provision for a civil government for Alaska, and for other purposes, and had come to no resolution thereon.

Mr. PAYNE. Mr. Speaker, a parliamentary inquiry. Did the House adjourn last night to this morning, or did it take a recess?

The SPEAKER. It took a recess.

Mr. PAYNE. Then I move that the House adjourn.

The motion was agreed to; and accordingly (at 11 o'clock and 52 minutes a. m., Friday, May 25) the House adjourned.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. JONES of Washington, from the Committee on the Public Lands, reported the bill of the House (H. R. 11841) relating to forest reserves, national parks, and amending the act of June 4, 1897, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1898, and for other purposes," in lieu of H. R. 5267, H. R. 9668, and H. R. 10739, accompanied by a report (No. 1700); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HULL, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 8752) to prevent the selling of or dealing in beer, wine, or any intoxicating drinks in any post exchange, or canteen, or transport, or upon any premises used for military purposes by the United States, reported the same with amendment, accompanied by a report (No. 1701); which said bill and report were referred to the House Calendar.

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 11550) to authorize the Secretary of War to cause to be investigated and to provide for the payment of all just claims against the United States for private property taken and used in the military service within the limits of the United States during the war with Spain, reported the same without amendment, accompanied by a report (No. 1702); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. EDDY, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 10845) to provide for the relief of certain settlers upon Wisconsin railroad lands forfeited under the act of September 29, 1890, which lands were treated by the Interior Department erroneously as Chicago, St. Paul, Minneapolis and Omaha indemnity lands, reported the same with amendment, accompanied by a report (No. 1712); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the Senate (S. 340) to amend an act entitled "An act granting pensions to the survivors of the Indian wars of 1832 to 1842, inclusive, known as the Black Hawk war, Creek war, Cherokee disturbances, and the Seminole war," approved July 27, 1892, reported the same with amendment, accompanied by a report (No. 1713); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FLYNN, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 8856) amending the act of August 15, 1894, entitled "An act making appropriations for current and contingent expenses of the Indian Department and fulfilling treaties and stipulations with various Indian tribes for the fiscal year ending June 30, 1895," and for other purposes, reported the same without amendment, accompanied by a report (No. 1714); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. CALDWELL, from the Committee on War Claims, reported the bill of the House (H. R. 11842) for the relief of Samuel M. Nalley, in lieu of H. R. 6401, accompanied by a report (No. 1704); which said bill and report were referred to the Private Calendar.

Mr. HENRY of Mississippi, from the Committee on War Claims, reported the resolution of the House (H. Res. 274) referring the claim of William T. Trammell to the Court of Claims, in lieu of H. R. 4934, accompanied by a report (No. 1705); which said resolution and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 1868) for the relief of Dr. Thomas J. Coward, reported the same with amendment, accompanied by a report (No. 1706); which said bill and report were referred to the Private Calendar.

Mr. CALDWELL, from the Committee on War Claims, reported the resolution of the House (H. Res. 275) referring the claim of John H. Redman to the Court of Claims, in lieu of H. R. 2309, accompanied by a report (No. 1707); which said resolution and report were referred to the Private Calendar.

Mr. SPALDING, from the Committee on War Claims, reported the resolution of the House (H. Res. 276) referring the claim of

the estate of August Heberlein, deceased, to the Court of Claims, in lieu of H. R. 10213, accompanied by a report (No. 1708); which said resolution and report were referred to the Private Calendar.

Mr. HENRY of Mississippi, from the Committee on War Claims, reported the resolution of the House (H. Res. 277) referring the claim of the estate of Cyrus Martin, deceased, to the Court of Claims, in lieu of H. R. 8101, accompanied by a report (No. 1709); which said resolution and report were referred to the Private Calendar.

Mr. CALDWELL, from the Committee on War Claims, reported the resolution of the House (H. Res. 278) referring the claim of Benjamin F. Fox to the Court of Claims, in lieu of H. R. 8484, accompanied by a report (No. 1710); which said resolution and report were referred to the Private Calendar.

Mr. WEAVER, from the Committee on War Claims, to which was referred the bill of the House (H. R. 299) for the relief of James E. Wilson, reported the same with amendment, accompanied by a report (No. 1711); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. THOMAS of Iowa, from the Committee on Claims, to which was referred the bill of the House (H. R. 2866) for the relief of Secor & Co., Perine, Secor & Co., and the executors of Zeno Secor, reported the same adversely, accompanied by a report (No. 1699); which said bill and report were ordered to lie on the table.

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 289) for the relief of the estate of Robert Fishburne, jr., deceased, late of Colleton County, S. C., reported the same adversely, accompanied by a report (No. 1703); which said bill and report were ordered to lie on the table.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 191) granting a pension to Laura P. Lee—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

Resolution (H. Res. 158) providing for painting twenty oil portraits of designated ex-Speakers of the House—Committee on Accounts discharged, and referred to the Committee on the Library.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred, as follows:

By Mr. DAYTON: A bill (H. R. 11839) to amend section 4488, Revised Statutes of the United States—to the Committee on Interstate and Foreign Commerce.

By Mr. WILSON of Arizona: A bill (H. R. 11840) to open a part of the Navajo Indian Reservation in Arizona to mineral locations—to the Committee on Indian Affairs.

By Mr. JONES of Washington, from the Committee on the Public Lands: A bill (H. R. 11841) relating to forest reserves, national parks, and amending the act of June 4, 1897, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1898, and for other purposes"—to the Union Calendar.

By Mr. CURTIS (by request): A bill (H. R. 11843) to authorize and legalize the use of the system of chronology known as "The prophetic biblical system of chronology," or "Cruzen's Christian chronology," developed by James H. Cruzen—to the Committee on the Judiciary.

By Mr. SOUTHARD: A bill (H. R. 11844) for the appointment of a commission to investigate labor conditions in foreign countries and to procure statistics relative thereto—to the Committee on Labor.

By Mr. McCLEARY: A joint resolution (H. J. Res. 259) to regulate the distribution of public documents to the Library of Congress for its own use and for international exchange—to the Committee on Printing.

By Mr. FITZGERALD of Massachusetts: A concurrent resolution (H. C. Res. 50) relating to ecclesiastical marriages in Cuba—to the Committee on Insular Affairs.

By Mr. McCLEARY: A concurrent resolution (H. C. Res. 51) providing for printing the proceedings in Congress upon the reception and acceptance of the statue of Gen. Ulysses S. Grant—to the Committee on Printing.

By Mr. HULL: A resolution (H. Res. 272) for printing 5,000 copies of the report on H. R. 8752—to the Committee on Printing.

By Mr. RAY of New York: A resolution (H. Res 273) for the consideration of H. J. Res. 138 and H. R. 10539—to the Committee on Rules.

By Mr. ACHESON: A memorial of the State of Pennsylvania, explanatory of the bills S. 2947 and H. R. 1066—to the Committee on War Claims.

By Mr. YOUNG: A memorial of the State of Pennsylvania, explanatory of the bills S. 2947 and H. R. 1066—to the Committee on War Claims.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. CALDWELL, from the Committee on War Claims: A bill (H. R. 11842) for the relief of Samuel M. Nalley—to the Private Calendar.

By Mr. BELLAMY: A bill (H. R. 11845) for the relief of the administrator of Reuben Henry—to the Committee on the Post-Office and Post-Roads.

By Mr. BOWERSOCK: A bill (H. R. 11846) to remove the charge of desertion against William Davis—to the Committee on Military Affairs.

Also, a bill (H. R. 11847) granting a pension to Andrew J. Baucom—to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 11848) granting a pension to Mary E. Phillips—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11849) for the relief of Warner R. Hancock—to the Committee on Military Affairs.

By Mr. CURTIS: A bill (H. R. 11850) granting an increase of pension to Ida C. Martin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11851) granting an increase of pension to Minor B. Monaghan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11852) granting an increase of pension to John Wesley—to the Committee on Invalid Pensions.

By Mr. GAINES: A bill (H. R. 11853) for the relief of Bernard Mattingly—to the Committee on Invalid Pensions.

By Mr. GIBSON: A bill (H. R. 11854) granting a pension to Polly Ann Hansard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11855) granting a pension to William L. Whetsell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11856) granting a pension to E. J. Lee—to the Committee on Invalid Pensions.

By Mr. GILBERT: A bill (H. R. 11857) granting an increase of pension to George W. McClure—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11858) granting an increase of pension to Harden Golden—to the Committee on Invalid Pensions.

By Mr. NEEDHAM: A bill (H. R. 11859) for the relief of Charles Hensley—to the Committee on Private Land Claims.

By Mr. SHERMAN: A bill (H. R. 11860) granting a special pension to Mrs. Mary Florence Von Steinwehr—to the Committee on Invalid Pensions.

By Mr. SIBLEY: A bill (H. R. 11861) to remove the charge of desertion against the name of Nelson L. Willard—to the Committee on Military Affairs.

By Mr. SOUTHARD: A bill (H. R. 11862) granting a pension to Mary E. McCarty—to the Committee on Invalid Pensions.

By Mr. STARK: A bill (H. R. 11863) to correct the military record of James M. Brown—to the Committee on Military Affairs.

By Mr. JAMES R. WILLIAMS: A bill (H. R. 11864) to remove the charge of desertion from the record of Jeremiah McDaniel—to the Committee on Military Affairs.

By Mr. ZIEGLER: A bill (H. R. 11865) to increase the pension of Mary A. Alwood—to the Committee on Invalid Pensions.

By Mr. SCUDDER: A bill (H. R. 11866) to provide for the inspection of the boiler of the tug *Rocket*—to the Committee on Interstate and Foreign Commerce.

By Mr. SHAFROTH: A bill (H. R. 11867) granting an increase of pension to Sarah A. Creed—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11868) granting a pension to Joseph C. Dostal—to the Committee on Invalid Pensions.

By Mr. FLYNN: A bill (H. R. 11869) providing for the issuance of a patent to lands occupied by the Sacred Heart Mission, in accordance with agreement made by the United States with the Citizens band of Pottawatomie Indians, of Oklahoma Territory—to the Committee on Indian Affairs.

By Mr. SMALL: A bill (H. R. 11870) for the relief of the estate of Peter H. Knight—to the Committee on War Claims.

Also, a bill (H. R. 11871) for the relief of John I. Rowland—to the Committee on War Claims.

Also, a bill (H. R. 11872) for the relief of T. H. B. Myers—to the Committee on War Claims.

Also, a bill (H. R. 11873) granting a pension to Margaret McGowan—to the Committee on Pensions.

By Mr. RIDGELY: A bill (H. R. 11874) granting an increase of pension to John Wintermote—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11875) granting a pension to Josiah T. McKee—to the Committee on Invalid Pensions.

By Mr. HENRY of Mississippi, from the Committee on War Claims: A resolution (H. Res. 274) referring the claim of William T. Trammell to the Court of Claims—to the Private Calendar.

By Mr. CALDWELL, from the Committee on War Claims: A resolution (H. Res. 275) referring the claim of John H. Redman to the Court of Claims—to the Private Calendar.

By Mr. SPALDING, from the Committee on War Claims: A resolution (H. Res. 276) referring the claim of the estate of August Herberlein to the Court of Claims—to the Private Calendar.

By Mr. HENRY of Mississippi, from the Committee on War Claims: A resolution (H. Res. 277) referring the claim of the estate of Cyrus Martin, deceased, to the Court of Claims—to the Private Calendar.

By Mr. CALDWELL, from the Committee on War Claims: A resolution (H. Res. 278) referring the claim of Benjamin F. Fox to the Court of Claims—to the Private Calendar.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN of Maine: Resolutions of A. Lincoln Post, No. 29, of Wells, Me., Grand Army of the Republic, favoring the establishment of a Branch Soldiers' Home for disabled soldiers near Johnson City., Tenn.—to the Committee on Military Affairs.

Also, petition of H. B. True and 50 other citizens of Pownal, Me., favoring the passage of House bill No. 3717, amending the oleomargarine law—to the Committee on Agriculture.

By Mr. BARTHOLDT: Petition of the State League of Building and Loan Associations of Missouri, in favor of bill to celebrate the Louisiana purchase by a world's fair at St. Louis, Mo., in 1903—to the Special Committee on Louisiana Purchase Celebration.

By Mr. BROMWELL: Resolutions of the Chamber of Commerce of Cincinnati, Ohio, concerning the improvement of the Ohio River—to the Committee on Rivers and Harbors.

By Mr. BUTLER: Petition of the Woman's Christian Temperance Union of Berwyn, Pa., for the passage of a bill to forbid liquor selling in canteens and in the Army, Navy, post exchanges, etc.—to the Committee on Military Affairs.

By Mr. CANNON: Petition of ex-Union soldiers of Plainfield, Ill., and vicinity, favoring the enactment of legislation granting a pension of $30 per month to all who served ninety days or more in the military or naval service of the United States and are now suffering from permanent disabilities—to the Committee on Invalid Pensions.

By Mr. ESCH: Petition of the Young People's Society of Christian Endeavor of Lower Big Creek, Monroe County, Wis., urging the enactment of the anti-canteen bill—to the Committee on Military Affairs.

By Mr. FINLEY: Petition of A. J. Evans and R. S. Beckham, of Rockhill, S. C., for the repeal of the tax on medicines, perfumery, and cosmetics—to the Committee on Ways and Means.

By Mr. GRAHAM: Statement from auditor-general's office, Harrisburg, Pa., in explanation of the claim of the State of Pennsylvania for balance due for expenditures on account of the militia in the military service under the proclamation of the President of June 15, 1863—to the Committee on War Claims.

Also, petitions of the Central Presbyterian Church and Colonel John B. Clark Post, No. 162, Grand Army of the Republic, of Allegheny, Pa., urging the passage of House bill prohibiting the sale of liquor in Army canteens, Soldiers' Homes, reservations used by the Government, or in our new possessions—to the Committee on Military Affairs.

By Mr. JENKINS: Petitions of numerous citizens of the State of Wisconsin, to save Government lands in Wisconsin for actual settlers and stop the sale to speculators—to the Committee on the Public Lands.

By Mr. KAHN: Petition of the Mark Hopkins Institute of Art, favoring the passage of a bill to create a Capitol art commission, and for other purposes—to the Committee on the Library.

Also, petition of the executive committee of the Pacific Commercial Museum, favoring the passage of House bill relating to the Philadelphia museums, etc.—to the Committee on Interstate and Foreign Commerce.

By Mr. LANE: Petition of R. M. Smith Post, No. 269, Grand Army of the Republic, Department of Iowa, indorsing the bill to establish a Branch Home for disabled soldiers at or near Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. McRAE: Petition of Ex-Slave Association No. 654, of Carmel, Chicot County, Ark., asking for the passage of bill to pension ex-slaves—to the Committee on Pensions.

By Mr. MERCER: Resolution of the Union Commercial Club, of Lincoln, Nebr., in reference to House bill No. 887, relating to the Philadelphia museums, etc.—to the Committee on Interstate and Foreign Commerce.

By Mr. NAPHEN: Memorial of the American Association of China, in regard to consular reform—to the Committee on Foreign Affairs.

Also, petition of the Merchants' Association of the city of New York, protesting against the passage of the ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Spanish war veterans of the District of Columbia, for an appropriation to build an addition to the hospital for persons unable to pay—to the Committee on Appropriations.

Also, petition of the American Chamber of Commerce of Manila, Philippine Islands, for the modification of hard and oppressive taxes—to the Committee on Ways and Means.

Also, resolutions of the Maritime Association of the Port of New York, in favor of Senate amendments to House bill No. 8347, restoring the appropriations for the maintenance of the Hydrographic Office—to the Committee on Naval Affairs.

Also, petition of Forest City Lodge, No. 10, Cleveland, Ohio, against any legislation regulating the manufacture of butterine—to the Committee on Agriculture.

By Mr. NEEDHAM: Petition of Woman's Christian Temperance Union of San Diego County, Cal., urging the enactment of a law forbidding the sale of intoxicating liquors in the Hawaiian Islands, Philippines, Porto Rico, and Cuba—to the Committee on the Territories.

By Mr. ROBERTS: Petitions of citizens of Chelsea, Mass., and Walnut Avenue Congregational Church, of Boston, Mass., for the passage of a bill to forbid liquor selling in canteens and in the Army, Navy, post exchanges, etc.—to the Committee on Military Affairs.

By Mr. ROBINSON of Indiana: Petition of J. D. Campbell and 3 other druggists of Waterloo, Iowa, for the repeal of the tax on medicines, perfumery, and cosmetics—to the Committee on Ways and Means.

By Mr. SCUDDER: Petitions of Young People's Society of Christian Endeavor and Methodist Episcopal Church of East Hampton, N. Y., to amend House bill No. 5475, known as the anti-canteen bill—to the Committee on Military Affairs.

By Mr. SHAFROTH: Resolutions of Unity Church of Fort Collins, Colo., urging the enactment of a law forbidding the sale of intoxicating liquors in the Hawaiian Islands—to the Committee on the Territories.

By Mr. SLAYDEN: Petition of druggists of Boerne, Tex., for the repeal of the tax on medicines, perfumery, and cosmetics—to the Committee on Ways and Means.

By Mr. TAWNEY: Petition of 160 citizens of West Concord, Minn., in favor of the Bowersock anti-canteen bill—to the Committee on Military Affairs.

By Mr. WEEKS: Petition of Fremont Center Grange, No. 654, Patrons of Husbandry, of Michigan, in support of House bill No. 3717, to control the sale of imitation dairy products; also in favor of Senate bill 1439, to vest additional authority in the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. WEYMOUTH: Petition of citizens of Groton, Mass., asking for the passage of the Bowersock bill—to the Committee on Military Affairs.

By Mr. YOUNG: Petition of Philadelphia Bourse, Philadelphia, Pa., favoring House bill No. 10301, relating to the pneumatic-tube service—to the Committee on the Post-Office and Post-Roads.

By Mr. ZIEGLER: Papers to accompany House bill increasing the pension of Mary A. Alwood, widow of William H. Alwood—to the Committee on Invalid Pensions.

SENATE.

FRIDAY, *May 25, 1900.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings.

Mr. ALLEN. I ask unanimous consent that the further reading of the Journal be dispensed with.

Mr. CHANDLER. I object, Mr. President.

The reading of the Journal was resumed and concluded; and it was approved.

INTERPARLIAMENTARY UNION.

The PRESIDENT pro tempore. The Chair presents an invitation which perhaps it will be proper to have read.